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# MEMORANDUM

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**To:** *Capital Contraction Subcommittee*

**From:** *John Borden, Legislative Fiscal Office*  
(503) 986-1842

**Date:** June 29, 2015

**Subject:** SB 222 - Work Session Recommendations

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Senate Bill 222 relates to appearance by attorney in juvenile court proceedings. The measure is effective on passage.

The work session packet, including a **draft** budget report and one amendment, are available on the Oregon Legislative Information System (OLIS).

If the measure fails to become law, there would potentially be a significant fiscal impact, as noted in the draft budget report.

## Amendment

- –A7 amendment does the following:
  - (1) extends the current sunset that authorizes the Department of Human Services to appear as party in juvenile court proceeding without appearance of Attorney General at any uncontested hearing and any hearing where the district attorney appears on behalf of the state and shares the same position as the department;
  - (2) creates an 18 member Task Force on Legal Representation in Childhood Dependency; and
  - (3) Provides for a \$175,707 General Fund appropriation to the Office of the Governor for staffing the Task Force on Legal Representation in Childhood Dependency.

**Motion #1: Move adoption of the –A7 amendment to SB 222.**

## Measure as Modified

The measure, as amended by the –A7, is recommended to be moved to the full Committee on Joint Ways and Means.

**Motion #2: Move SB 222 to the full committee with a “do pass” recommendation, as modified by the –A7 amendment.**

## Carriers:

Full Committee Carrier: \_\_\_\_\_

Second Chamber Carrier: \_\_\_\_\_

**78<sup>th</sup> OREGON LEGISLATIVE ASSEMBLY – 2015 Session  
BUDGET REPORT AND MEASURE SUMMARY**

**MEASURE: SB 222**

**JOINT COMMITTEE ON WAYS AND MEANS**

**Carrier – House: Rep.  
Carrier – Senate: Sen.**

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**Action:**

**Vote:**

House

Yeas:

Nays:

Exc:

Senate

Yeas:

Nays:

Exc:

**Prepared By:** John Borden, Legislative Fiscal Office

**Reviewed By:** Daron Hill, Laurie Byerly, and Steve Bender, Legislative Fiscal Office

**Meeting Date:**

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Agency

Office of the Governor

Biennium

2015-17

Draft for Subcommittee

**Budget Summary\***

	2013-15 Legislatively Approved Budget <sup>(1)</sup>	2015-17 Current Service Level	2015-17 Committee Recommendation	Committee Change from 2013-15 Leg. Approved	
				\$ Change	% Change
General Fund Limited	\$ -	\$ -	\$ 175,707	\$ 175,707	0.0%
Total	\$ -	\$ -	\$ 175,707	\$ 175,707	0.0%

**Position Summary**

Authorized Positions	0	0	1	1
Full-time Equivalent (FTE) positions	0.00	0.00	0.75	0.75

<sup>(1)</sup> Includes adjustments through December 2014

\* Excludes Capital Construction expenditures

**Revenue Summary**

A General Fund appropriation in the amount of \$175,707 funds the measure.

**Summary of Public Safety Subcommittee Action**

The Subcommittee approved a \$175,707 General Fund appropriation to the Office of the Governor and the establishment of one limited duration Principal Executive Manager F position (0.75 FTE) and associated services and supplies, to staff the Task Force on Legal Representation in Childhood Dependency. This includes the cost for reimbursement for non-legislative task force members. This is a one-time appropriation that is to be phased-out of the agency 2017-19 biennial budget. The measure has an emergency clause and is effective on passage.

The measure extends the sunset from June 30, 2015 to June 30, 2018 on statutes that temporarily codify current practice authorizing the Department of Human Services (DHS) child welfare case workers to appear in juvenile court dependency proceedings without counsel at hearings required by ORS 419B.305 and proceedings where the district attorney appears on behalf of the state.

If this bill does not become law, and the sunset is not extended, the fiscal impact of providing full representation for DHS is projected to be roughly \$7.3 million Total Funds (\$5.1 million General Fund and \$2.2 Federal Funds) for the 2015-17 biennium. The majority of this amount would be for Department of Justice legal expenses (\$7.2 million). The Public Defense Service Commission could see an increase in costs due to additional issues being presented in court by counsel representing DHS.

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-jurisdictional, uncontested hearings. If and when a hearing becomes contested, the proceeding is set over to allow DHS to appear with counsel. Pre-jurisdictionally, 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 [see HB 4156 (2014)].

In addition to the extension of the sunset, this measure establishes an 18-member Task Force on Legal Representation in Childhood Dependency. The task force is charged with recommending models to ensure adequate representation for children and parents served by the child welfare system. The task force is required to submit a report to the legislature by July 15, 2016. The task force sunsets on December 31, 2017.

The fiscal impact of this bill on DHS is estimated to be indeterminate and could be more than minimal depending on how much time agency participants will need to spend on task force activities. As DHS is a key player in the juvenile court proceedings that are the focus of this bill, it is also likely that other agency staff may be asked to help gather and analyze data to provide the task force with necessary decision support materials.

The measure has a minimal fiscal impact on Public Defense Services Commission, Oregon Judicial Department, and the Department of Justice.

Draft for Subcommittee

**Budget Summary\***

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Total	\$ -	\$ -	\$ 175,707	\$ 175,707	0.0%

**Position Summary**

Authorized Positions	0	0	1	1	
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Draft for Subcommittee

**PROPOSED AMENDMENTS TO  
A-ENGROSSED SENATE BILL 222**

1 On page 1 of the printed A-engrossed bill, line 3, delete “sections 2 and”  
2 and insert “section”.

3 Delete lines 5 through 25.

4 On page 2, delete line 1 and insert:

5 **“SECTION 1. Section 3, chapter 106, Oregon Laws 2014, is amended to**  
6 **read:**

7 **“Sec. 3. Section 2, chapter 106, Oregon Laws 2014, [*of this 2014 Act*] is**  
8 **repealed on June 30, [2015] 2018.**

9 **“SECTION 2. (1) The Task Force on Legal Representation in Child-**  
10 **hood Dependency is established to recommend models for legal repre-**  
11 **sentation in juvenile court proceedings that will improve outcomes for**  
12 **children and parents served by the child welfare system, to ensure that**  
13 **parties in juvenile court cases are prepared to proceed and to enable**  
14 **courts to resolve juvenile court proceedings as quickly and efficiently**  
15 **as possible. The task force shall consist of 18 members appointed as**  
16 **follows:**

17 **“(a) The President of the Senate shall appoint two members from**  
18 **among members of the Senate.**

19 **“(b) The Speaker of the House of Representatives shall appoint two**  
20 **members from among members of the House of Representatives.**

21 **“(c) The Governor shall appoint seven representatives as follows:**

22 **“(A) Two persons representing the Department of Human Services;**

1       **“(B) Two persons representing the Oregon District Attorneys Association or district attorneys in Oregon; and**

2  
3       **“(C) Three persons representing the Public Defense Services Commission or attorneys who provide legal defense in juvenile dependency proceedings.**

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5  
6       **“(d) The Chief Justice of the Supreme Court shall appoint five representatives as follows:**

7  
8       **“(A) Three judges with experience presiding over juvenile court dependency proceedings;**

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10       **“(B) One person representing court appointed special advocates; and**

11       **“(C) One person representing the Citizen Review Board or local citizen review boards.**

12  
13       **“(e) The Attorney General shall appoint two persons representing the Department of Justice.**

14  
15       **“(2) The task force shall propose legislation and make recommendations to ensure that:**

16  
17       **“(a) Attorneys for parents and children in juvenile court proceedings have workloads that allow the attorneys to provide client-centered, competent and effective legal representation throughout the entirety of the proceedings;**

18  
19  
20  
21       **“(b) Attorneys for the state and for the Department of Human Services are available to provide competent, effective and efficient legal representation in juvenile court proceedings;**

22  
23  
24       **“(c) Judicial and attorney resources are sufficient to avoid unnecessary delays that inhibit the resolution or conclusion of juvenile court proceedings; and**

25  
26  
27       **“(d) Oregon statutory law is consistent with the models for legal representation proposed by the task force.**

28  
29       **“(3) The task force shall:**

30       **“(a) Examine the use of performance standards unique to each role**

1 **within the juvenile court system as a way to create and ensure state-**  
2 **wide consistency in practice;**

3 **“(b) Make recommendations regarding the development and en-**  
4 **hancement of existing performance standards;**

5 **“(c) Examine the unique needs and resources within each jurisdic-**  
6 **tion and statewide, and develop plans to work with partners and**  
7 **stakeholders at the state and local levels to adopt programs, policies**  
8 **and intergovernmental agreements designed to ensure efficient legal**  
9 **representation and produce improved outcomes for children and fami-**  
10 **lies in juvenile court proceedings;**

11 **“(d) Examine and make recommendations regarding the number of**  
12 **attorneys, paralegals and other staff and overhead capacity necessary**  
13 **to provide sufficient representation for the state, the Department of**  
14 **Human Services and children and parents who are parties in juvenile**  
15 **dependency proceedings;**

16 **“(e) Develop a plan to assist counties that want to implement pro-**  
17 **cedures designed to reduce delays within the juvenile court system,**  
18 **avoid duplication of efforts, identify potential efficiencies in crossover**  
19 **cases and encourage cost-effective case resolution;**

20 **“(f) Conduct surveys of:**

21 **“(A) Each county in the state to identify models of representation,**  
22 **effective practices, stages of juvenile court proceedings at which chil-**  
23 **dren and parents are represented and related outcomes; and**

24 **“(B) Other states to identify models of effective representation and**  
25 **funding that lead to improved outcomes for children and families;**

26 **“(g) Review statutory and case law related to the unauthorized**  
27 **practice of law and consider the application of such laws in juvenile**  
28 **court proceedings; and**

29 **“(h) Identify the following:**

30 **“(A) Statutory changes needed to support proposed models of legal**



1 representation;

2 “(B) The benefits of legal representation to the state, the Depart-  
3 ment of Human Services and children and families in juvenile court  
4 proceedings;

5 “(C) The obstacles in counties statewide to providing children and  
6 parents with legal representation in juvenile court proceedings;

7 “(D) The obstacles in counties statewide to providing legal repre-  
8 sentation to the Department of Human Services; and

9 “(E) Optimal attorney caseload levels and other resources necessary  
10 to provide appropriate legal representation in juvenile court pro-  
11 ceedings.

12 “(4) A majority of the members of the task force constitutes a  
13 quorum for the transaction of business.

14 “(5) Official action by the task force requires the approval of a  
15 majority of the members of the task force.

16 “(6) The task force shall elect one of its members to serve as  
17 chairperson.

18 “(7) If there is a vacancy for any cause, the appointing authority  
19 shall make an appointment to become immediately effective.

20 “(8) The task force shall meet at times and places specified by the  
21 call of the chairperson or of a majority of the members of the task  
22 force.

23 “(9) The task force may adopt rules necessary for the operation of  
24 the task force.

25 “(10) The task force shall submit a report in the manner provided  
26 by ORS 192.245 that includes the recommendations of the task force,  
27 including recommendations for legislation, to the interim committees  
28 of the Legislative Assembly related to child welfare and juvenile court  
29 proceedings as appropriate no later than July 15, 2016.

30 “(11) The Office of the Governor shall provide staff support to the

1 task force in coordination with the Governor’s legal counsel appointed  
2 under ORS 133.743 and the Governor’s human services policy advisor.

3 “(12) Members of the task force who are not members of the Leg-  
4 islative Assembly are not entitled to compensation, but may be reim-  
5 bursed for actual and necessary travel and other expenses incurred by  
6 them in the performance of their official duties in the manner and  
7 amounts provided for in ORS 292.495. Claims for expenses incurred in  
8 performing functions of the task force shall be paid out of funds ap-  
9 propriated to Governor for purposes of the task force.

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

15 “SECTION 3. Section 2 of this 2015 Act is repealed on December 31,  
16 2017.

17 “SECTION 4. Notwithstanding any other provision of law, the  
18 General Fund appropriation made to the Office of Governor by section  
19 1, chapter \_\_\_\_, Oregon Laws 2015 (Enrolled House Bill 5021), for the  
20 biennium beginning July 1, 2015, is increased by \$175,707 for expenses  
21 of the Task Force on Legal Representation in Childhood Dependency  
22 established by section 2 of this 2015 Act.”.

23 In line 2, delete “4” and insert “5”.

24 In line 3, delete “2” and insert “1”.

25 In line 11, delete “5” and insert “6”.

26 \_\_\_\_\_