

HB 2616 A -A3 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 5/2, 5/25

WHAT THE MEASURE DOES:

Directs court to appoint counsel for indigent youth in juvenile court if the offense alleged is classified as a crime, it is a probation proceeding or youth would be entitled to counsel if he or she were an adult charged with the same offense. Specifies procedures for youth to waive counsel. Allows youth to waive counsel prior to entering into formal accountability agreement.

ISSUES DISCUSSED:

- Need to balance right of youth to have counsel and right of youth to waive counsel
- What is the appropriate age to allow a youth to waive counsel
- Currently, approximately 100 juveniles waive counsel each year

EFFECT OF AMENDMENT:

-A3 Requires juvenile to be at least age 16 to waive counsel.

BACKGROUND:

In 1967, *In re Gault*, the U.S. Supreme Court held that juveniles had a constitutional right to counsel in juvenile delinquency proceedings. In Oregon, a youth in a juvenile delinquency proceeding is entitled to counsel. If the youth is unable to afford counsel, as established under Public Defense Services Commission guidelines, the youth is entitled to counsel at state expense. House Bill 2616-A requires the court to appoint counsel to represent indigent youth in all stages of a juvenile delinquency proceeding if the petition is classified as a crime, it is a probation proceeding or youth would be entitled to counsel if he or she were an adult charged with the same offense. The court may appoint counsel for youth in other delinquency proceedings. HB 2616-A also specifies procedures for a youth to waive counsel in these proceedings, such as only allowing waiver if the youth is at least age 12. Finally, HB 2616-A allows a youth to waive counsel prior to entering into a formal accountability agreement if the youth has been advised of the right to counsel in writing and the waiver is in writing, signed by the youth and presented to the youth's juvenile department counselor. A formal accountability agreement allows a youth to avoid having a petition alleging a violation of the law filed against the youth if certain conditions are met.