

FISCAL IMPACT OF PROPOSED LEGISLATION**Measure: SB 371 - A**80th Oregon Legislative Assembly – 2019 Regular Session
Legislative Fiscal Office*Only Impacts on Original or Engrossed
Versions are Considered Official*Prepared by: Meg Bushman-Reinhold
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Date: March 21, 2019**Measure Description:**

Establishes pilot programs for purpose of appointing legal counsel for children in contested domestic relations proceedings.

Government Unit(s) Affected:

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

Summary of Fiscal Impact:

Costs related to the measure may require budgetary action - See analysis.

Summary of Expenditure Impact:

	2019-21 Biennium	2021-23 Biennium
Public Services Defense Commission	\$0	\$0
General Fund		
Personal Services	451,541	536,355
Services and Supplies	1,336,834	2,616,669
Total Funds	\$1,788,375	\$3,153,024
Positions	2	2
FTE	1.84	2.00

Analysis:

This bill establishes a pilot program to provide court-appointed counsel to children in contested custody and parenting time cases. The pilot, developed in collaboration with the Oregon Judicial Department (OJD), would be run by the Public Defense Services Commission (OPDS) and would operate in three judicial districts (an urban, a rural and a mixed urban-rural judicial district) from July 1, 2020 through January 1, 2025. The three judicial districts are not named in the bill.

Public Services Defense Commission

The Public Services Defense Commission (OPDS) is required to develop and implement the pilot program, including establishing minimum qualifications for attorneys appointed for children, developing criteria for the court to use in appointing counsel for a child, determining reasonable compensation for appointed counsel, and ensuring payment of fees and costs to appointed counsel.

OPDS is also required to administer a grant program to pay the fees and costs of appointed counsel, establish criteria for financial assistance to pay for court-appointed counsel and develop procedures for the parties to contribute to the fees and costs of court-appointed counsel.

Finally, OPDS will collect data on the pilot from participating attorneys and submit an annual report on the pilot program the Legislature no later than September 15 of each year.

Without knowing which counties will be in the pilot, it is difficult to project costs precisely for court-appointed counsel. Custody filings from OJD were used as a baseline to obtain the average number of cases for urban, rural

and urban-rural districts. OPDS assumes that about one-third of child custody cases are contested, and that counsel would be appointed in each of those cases. This assumption does not include parenting time modifications, however, which technically are covered by the bill. Actual usage of this program will be determined by the criteria judges use to appoint counsel in custody and parenting time disputes.

The pilot program would begin in July 1, 2020. Using an hourly rate of \$125 per hour for 50 hours of work per case for attorney fee compensation, OPDS anticipates costs for court-appointed counsel to be \$1,299,834 General Fund for the last twelve months of the 2019-21 biennium. Costs for court-appointed counsel for 2021-23 is anticipated to be \$2,599,669 General Fund.

One Deputy General Counsel and one Business Analyst would be required for OPDS to meet the creation, oversight, data collection, and reporting needs of the bill. General Fund costs for 2 positions (1.67 FTE) at OPDS for the 2019-21 biennium would be \$451,541 for personal services and \$37,000 for services and supplies. General Fund costs for the 2021-23 biennium for 2 positions (2.00 FTE) would be \$536,355 for personal services and \$17,000 for services and supplies.

The fiscal impact to OPDS for the 2019-21 biennium is \$1,788,375 and for the 2021-23 biennium the fiscal impact is \$3,153,024 General Fund.

Oregon Judicial Department

The Oregon Judicial Department (OJD) will work in collaboration with OPDS to develop and administer the program. The Oregon State Bar is directed to convene an advisory committee to develop performance standards for attorneys appointed for children. The fiscal impact to OJD is expected to be minimal.