

SB 313 STAFF MEASURE SUMMARY

Senate Committee On Judiciary

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Meeting Dates: 2/7

WHAT THE MEASURE DOES:

Directs the court, in determining custody of a minor child, to consider the preferences of the child, in addition to other factors currently required to be considered. If the court does not find that the preferences of the child are outweighed by the other statutory factors, if the child is at least 14 years old and is sufficiently mature and intelligently and voluntarily expresses a preference for one parent, the child has the right to select the parent which whom the child will reside and select each parent's parenting time and decision-making responsibilities with respect to the child. Directs the court to give considerable weight to the preferences of a child under the age 14 if the child is sufficiently mature. Allows the court to confer with child without the parents present but must allow the parties' attorneys to be present; requires a conference report.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

When determining custody of a minor child under ORS 107.105 or 107.135, the court must give primary consideration to the best interests and welfare of the child. In determining the best interests and welfare of the child, the court must consider the following relevant factors:

- (a) The emotional ties between the child and other family members;
- (b) The interest of the parties in and attitude toward the child;
- (c) The desirability of continuing an existing relationship;
- (d) The abuse of one parent by the other;
- (e) The preference for the primary caregiver of the child, if the caregiver is deemed fit by the court;
- (f) The willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child. ...

Senate Bill 313 adds a requirement to consider the preferences of the child when making a custody determination. If certain factors are met and the child is 14 years or older, gives the child the right to choose which parent with which they will reside, including parenting time between the parents. If a child is younger than 14, and sufficiently mature, directs the court to give considerable weight to the child's preferences.