

HB 2345 A STAFF MEASURE SUMMARY

House Committee On Judiciary

Action Date: 03/14/17

Action: Do pass with amendments
and be referred to Ways and Means by prior reference. (Printed A-Eng.)

Vote: 10-0-1-0

Yeas: 10 - Barker, Gorsek, Lininger, Olson, Post, Sanchez, Sprenger, Stark, Vial, Williamson

Exc: 1 - Greenlick

Fiscal: Fiscal impact issued

Revenue: No revenue impact

Prepared By: Channa Newell, Counsel

WHAT THE MEASURE DOES:

Enacts recommendations of Task Force on Legal Representation in Childhood Dependency. Requires Department of Human Services (DHS) and Department of Justice (DOJ) to ensure that DHS has full access to representation through duration of juvenile dependency proceeding. Specifies DOJ must charge flat fee for services provided. Specifies measure does not prevent district attorney from representing state in dependency proceedings. Requires Public Defense Services Commission to develop and maintain Parent-Child Representation Program. Specifies parameters of Program. Requires Oregon Volunteers Commission to contract with minimum of four attorneys with expertise in child welfare and juvenile dependency to provide legal consultation to Court Appointed Special Advocates (CASA). Requires Judicial Department to convene continuous quality assurance advisory committee. Extends ability for DHS to appear without representation in juvenile dependency proceedings from June 30, 2018, to June 30, 2020. Makes findings on effect of obstacles to adequate dependency representation in Oregon and benefits of access to high quality representation for parents, children, families, and DHS. Requires report to Legislative Assembly. Declares emergency; effective on passage.

ISSUES DISCUSSED:

- Task Force efforts and recommendations
- Importance of coordination and cooperation from all three branches of Oregon government
- Goal of measure is to improve outcomes for children and families
- Desire for consistent outcomes across state
- Implementation of Parent-Child Representation Program statewide
- Need for District Attorney participation in cross-over cases and multi-disciplinary teams
- Best interest of state may conflict with best interest of child or family

EFFECT OF AMENDMENT:

Limits Department of Justice representation to dependency proceedings. Clarifies that Department of Justice must charge flat fee for services. Includes additional finding. Makes technical and clarifying changes.

BACKGROUND:

Juvenile dependency is a court process to temporarily or permanently remove a child from the care of a parent or guardian because of alleged abuse or neglect. Within 24 hours of a child being removed from a home by the Department of Human Services (DHS), a hearing must take place to determine if the child can stay safely within the home. A hearing to determine whether the court takes jurisdiction over a child must happen within 60 days of a petition being filed. In dependency cases, attorneys are appointed for the children and the parents. The district

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attorney often is present on behalf of the state. A DHS caseworker is also present, but frequently appears without counsel. Under ORS 9.320, the state must appear by attorney in all court cases; the Attorney General is the attorney for DHS.

In the 2015 legislative session, Senate Bill 222 suspended the requirement for representation of DHS in some dependency proceedings until June 30, 2018. The measure also convened a Task Force to develop recommendations on models for legal representation to improve outcomes for children and parents, and to ensure effective and efficient representation and court processes.

House Bill 2345-A is the recommendation of the Task Force. The measure requires the Department of Justice (DOJ) to represent DHS in all parts of a dependency proceeding and to do so for a flat rate. Additionally, the measure creates performance standards and caseload caps for attorneys and requires a coordinated data program to determine effective programs and problem areas. HB 2345-A expands the Parent-Child Representation Program, currently in operation in three counties, making it statewide by January 1, 2022. DHS, DOJ, and Office of Public Defender Services (OPDS) must report back to the Legislature on the implementation and outcomes of the programs.