

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 2104

81st Oregon Legislative Assembly – 2021 Regular Session
Legislative Fiscal Office***Only Impacts on Original or Engrossed
Versions are Considered Official***

Prepared by: Haylee Morse-Miller
Reviewed by: Gregory Jolivet, John Borden, Julie Neburka
Date: March 24, 2021

Measure Description:

Modifies definition of "current caretaker." Grants juvenile court continuing wardship jurisdiction upon establishment of permanent or durable guardianship regardless of whether original bases for wardship jurisdiction continue to exist.

Government Unit(s) Affected:

Oregon Judicial Department (OJD), Oregon Youth Authority (OYA), Department of Human Services (DHS), Department of Justice (DOJ), District Attorneys and their Deputies (DAs), Public Defense Services Commission (PDSC)

Summary of Fiscal Impact:

Costs related to the measure are indeterminate at this time - See explanatory analysis.

Analysis:

HB 2104 modifies requirements for a ward of the court. Under this measure, if a guardian has been appointed for a ward of the court, the wardship may not be terminated by the court until the court vacates the guardianship under ORS 419B.368, or until the ward is 21 years old.

A guardianship established under ORS 419B.365 or ORS 419B.366 continues unless vacated under ORS 419B.368, or until the ward is 21 years old. Previously, these guardianships would continue unless vacated under ORS 419B.368.

The fiscal impact for the Public Defense Services Commission (PDSC) is indeterminate. PDSC anticipates that passage of this measure will lead to increased litigation and caseloads. Under current practice, there are "permanent" and "general" guardianships. "Permanent" guardianships are established in cases where it is in a child's best interest to never again be in physical custody of their parent; a parent may not move to vacate a permanent guardianship. "General" guardianships are established in cases when a child cannot safely return home in a reasonable period of time; a parent may move to vacate a general guardianship.

PDSC notes that this measure makes it more difficult to terminate a "general" guardianship. Currently, parents may choose to stipulate a general guardianship, or may choose not to appeal if a general guardianship is established in a case, since a general guardianship may later be vacated. Under this measure, the guardianship could remain in place until a child is 21. Parents may be more likely to appeal under this circumstance. PDSC also anticipates that a case will be considered "open" until a child turns 21, which would increase the caseload for attorneys representing parents or children in these cases.

There is no fiscal impact on the Oregon Judicial Department, Oregon Youth Authority, Department of Justice, or Department of Human Services.