

**TESTIMONY ON HB 4121  
BEFORE THE SENATE COMMITTEE ON JUDICIARY AND BALLOT MEASURE 110  
IMPLEMENTATION  
FEBRUARY 21, 2022**

**PRESENTED BY: ERIN M. PETTIGREW, ACCESS TO JUSTICE COUNSEL FOR  
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OREGON JUDICIAL DEPARTMENT**

Chair Prozanski, Vice-Chair Thatcher, and Members of the Committee:

My name is Erin M. Pettigrew with the Office of Legislative Affairs at the Oregon Judicial Department (OJD). I am here to testify in support of House Bill HB 4121, a bill brought before you at the request of Chief Justice Martha Walters and OJD. The bill received unanimous support in both the House floor vote and the House Committee on Judiciary.

HB 4121 creates authority for subordinate judicial officers to handle child support and parentage cases. This change would allow child support referees to serve statewide in a centralized position – a position authorized last year by the Oregon Legislature. The language follows closely to the juvenile referee statute codified almost thirty years ago in ORS chapter 419A. Like existing juvenile court referees, a qualified referee hears and rules on the matter in the first instance, but a sitting circuit court judge has the final say. There is a right to be heard *de novo* should a party or a circuit court judge seek review of the referee’s decision, meaning that the circuit court judge would decide the matter anew and may admit any evidence available at the time of the *de novo* hearing.

The referee would handle child support matters filed by the Oregon Department of Justice’s (DOJ’s) Child Support Program or matters appealed from DOJ by parties -- usually parents participating in that program. When a family that has opted into Oregon’s child support services requires court intervention on matters such as a modification of support, contempt for failure to pay, or establishment of parentage, these cases may be heard by the referee position created under HB 4121, provided that the presiding judge in that judicial district has appointed the referee to serve. Based on prior experience, we do anticipate that most of the cases before the child support referee will be contempt cases. These litigants are appointed counsel and the attorneys are often the same attorneys appearing before our existing juvenile referees.

We’ve worked closely with DOJ in developing the legislation and we’re grateful for DOJ’s support of this bill.

**The reason for the bill is twofold:**

1. OJD believes that specialization and cross-district assignment of a referee will **promote a problem-solving approach statewide** on child support-related contempt cases and will focus on reasons why a parent isn't paying. Referees will encourage action plans designed to help individuals self-sustain, find employment, and afford appropriate support payments.
2. The **federal government will reimburse 66%** of the cost of referees **to expedite resolution** of support and parentage issues under Title IV-D of the Social Security Act.

This authority, together with the funding for the referee position authorized by the Oregon Legislature in 2021, will allow for more efficient service and enhanced judicial resources for families in need of prompt resolution.

Subsections (1) and (2) of HB 4121 authorize the Presiding Judge of a judicial district to appoint child support referees who will hear child support and parentage cases receiving child support services under Title IV-D of the Social Security Act. These could include parentage issues, establishment, modification, and enforcement of child support, and responsibility for health coverage. When implementing the centralized child support referee program, OJD does not intend to draw child support matters out of privately filed dissolution and custody cases. OJD instead will allow Presiding Judges to assign to the referee matters filed by DOJ or its contracting District Attorneys (such as contempt of court cases), or those cases appealed by a parent or the State to the circuit court after agency ruling.

Subsections (3) and (4) make clear that the decision of the referee becomes effective when entered, subject to review by a circuit court judge. That review can be initiated in two ways: a judge may order a new hearing on their own motion or a party may file notice claiming their statutory hearing right. Review must be initiated within ten days of entry of the decision of the referee.

The resulting *de novo* hearing, as in the juvenile court context, must occur within 45 days of the request. Subsection (4) of Section 1 clarifies that a circuit court judge handling the *de novo* hearing can admit the evidence considered by the referee but is not limited to that record. Allowing evidence *in addition* to what the referee heard is important in this context because financial facts can change quickly (jobs lost or hours reduced, for example) and it is efficient to have the judge hear the financial facts as they exist at the time of that *de novo* hearing. Accordingly, the judge handling the *de novo* hearing conducts it as if that judge were handling the matter in the first instance.

Subsection (5) sets out the obligation of court staff to process the referee ruling. The staff will enter the referee's order, unless a judge has ordered a *de novo* hearing on the judge's own motion- an occurrence we would expect to be very rare based on historical

practices in juvenile court. The court staff will note whether a judgment lien is created, as not all rulings will involve money awards. The clerk will make the required notations for judgment liens only when the ORS chapter 18 requirements for judgment liens are met. Once entered, the referee's order is treated in all respects as circuit court judgment except for the fact that it is not appealable to the Court of Appeals, as Section (3) of the bill makes clear. Instead a party may request a *de novo* hearing by a circuit court judge. The law remains unchanged that a ruling by a circuit court judge *is* appealable under ORS chapter 19.

Thank you for considering House Bill 4121. We are eager to begin this new chapter in child support cases in Oregon with the hope of better serving parents and kids.