



2019 Legislative Update

Kristen Farnworth, Senior Juvenile Law Analyst

- Kristen.P.Farnworth@ojd.state.or.us

Oregon Judicial Department

- Juvenile and Family Court Programs Division

<https://www.oregonlegislature.gov>

- Read bills/download bills
- Watch hearings
- View exhibits submitted at hearing
- Today's Presentation is a Summary of Bills
 - Not intended to be comprehensive in depth review of each bill



HOT BILL: HOUSE BILL 2849

- History:

ORS 419B.150 allows a child to be placed into protective custody if the child's, "condition or surrounding reasonably appear to be such as to jeopardize the child's welfare."

4th and 14th Amendments to the US Constitution directs that placement of a child into protective custody requires a showing of both *exigency* and *severe harm*.



HOT BILL: HOUSE BILL 2849 *(Continued)*

- Result:
- January 1, 2020
- Requires court order to take a child into protective custody **unless** reasonable cause to believe:
 - There is an imminent threat of severe harm to the child
 - The child poses an imminent threat of severe harm to self or others
 - There is an imminent threat that the child's parent/guardian will cause the child to be beyond the reach of the juvenile court before the child can be taken into protective custody
 - If there is reason to know that the child is an Indian child, the child may be placed into protective custody without court order when it is necessary to prevent imminent physical damage or harm to the child.

Family First Prevention Services Act

- FFPSA federal legislation signed into law February 9, 2018.
- Family First x 3
 - Keep children safely at home by providing services to prevent removals.
 - When children need out of home placements, children should be served in family foster homes not congregate care settings.
 - Recruit and retain high quality foster families and relative providers.
- Basis for and goals of FFPSA
 - Preserving Families: States have repeatedly made the case they can reduce costs and keeps families together if they can use IV-E funds for prevention services.
 - Systemically addressing substance use/opioid issues (A major reason children come into foster care is parental substance abuse.)
 - Paying for what works/evaluate programs to make sure they're effective
Moving forward, a goal of Congress is to focus on what works and to evaluate the effectiveness of federally-funded programs.



HOT BILL: SENATE BILL 171

Effective July 23, 2019* Oregon implementation of QRTP provisions July 1, 2020

Authorizes (DHS) to make payment for services to make available, maintain, and operate child-caring agency/agencies that are a qualified residential treatment program (QRTP).

Court to approve/disapprove placement at hearing. Must make findings:

- If the needs of the child or ward can be met through placement in a foster family home or in a proctor family home.
- If not, is the placement of that child or ward into a QRTP
 - the least restrictive setting to provide the most effective and appropriate level of care?
 - consistent with the individual's case plan?
- The court may receive testimony, reports or other material relating to the child or ward's mental, physical and social history and prognosis without regard to the competency or relevancy of the testimony, reports or other materials under the rules of evidence.
- If the court enters an order disapproving the placement, DHS shall move the child or ward to a placement consistent with the court's order no later than 30 days following the date the court enters the order.

Modifies Definition of "Child-caring agency" & establishes reporting requirements for county juvenile departments' court reports that are related to Title IV-E participation

SENATE BILL 181

June 27, 2019

- The Children's Care Licensing Program (CCLP) licenses child-caring agencies.
- Senate Bill 181 A modifies the definition of "child-caring agency" to include county programs that provide care or services to children in custody of Department of Human Services or Oregon Youth Authority but does not include any local juvenile detention facility that receives state services provided and coordinated by DOS under ORS 169.070.
- Now these programs are under the licensing authority of the CCLP.
- Previously, DHS required contracted county programs to obtain "approval" from the CCLP,
 - inconsistencies between approval and licensing processes.

**Modifies Definition of
“Child-caring
agency” &
establishes reporting
requirements for
county juvenile
departments and
court findings
related to Title IV-E
participation**

SENATE BILL

181

June 27, 2019

(Section 3) ORS 419C.620 is amended to read:

- (1) When required by the court, the Oregon Youth Authority or a private agency having guardianship or legal custody of a youth offender pursuant to court order shall file reports on the youth offender with the juvenile court that entered the original order concerning the youth offender.
- (2) A county juvenile department shall file a report with the juvenile court under this section if a youth offender remains under juvenile department care for six consecutive months from the date of initial placement and:
 - (a) The county juvenile department is a county program, as defined in ORS 418.205;
 - (b) The county juvenile department is participating in programs related to Title IV-E of the Social Security Act;
 - (c) The county juvenile department has responsibility for the care and placement of the youth offender; and
 - (d) The placement is not a detention facility.

Modifies Definition of
“Child-caring
agency” &
establishes reporting
requirements for
county juvenile
departments and
court findings
related to Title IV-E
participation

SENATE BILL

181

June 27, 2019

(Section 5)ORS 419C.626 is amended to read:

- After receiving a report required by ORS 419C.620 (2), if requested by the county juvenile department, the court’s findings under subsection (3) of this section must specifically state:
 - (a) Whether the county juvenile department has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to make it possible for the youth offender to safely return home. In making this finding, the court shall consider the youth offender’s health and safety the paramount concerns.
 - (b) The appropriateness of the youth offender’s placement.
 - (c) The extent of compliance with the youth offender’s case plan.
 - (d) The extent of progress that has been made toward alleviating or mitigating the causes necessitating the youth offender’s placement in substitute care.

System of Care:

SENATE BILL

1

January 1, 2020

Creates a statewide system of care advisory council and dashboard

- Objective to improve the effectiveness of state and local systems of care which provide services to youth by creating a long-range plan which will make recommendations to improve the current system.
- Create dashboard intended to be a central area where data relating to services provided to youth can be monitored and gathered.
- Must conduct joint studies with other agencies, make recommendations to the directors of the Oregon Youth Authority and Department of Human Services, and continually monitor the Children's System Data Dashboard.
- Creates Interdisciplinary Assessment Teams to provide for the timely offering of evaluations directly to youth and other functions such as supporting statewide education for providers.

Mandatory Reporters

HOUSE BILL

2227

January 1, 2020

SENATE BILL

415

January 1, 2020

HB 2227:

- Amends 419B.005
- Adds Animal Control Officers as mandatory reporters of child abuse.

SB 415:

- Amends 419B.005
- Adds Department of Education employees, school district board members, and public charter school governing body members as mandatory reporters of child abuse.

Reduced School Day

SENATE BILL

475

January 1, 2020

- Requires that a student's foster parent is provided with an opportunity to participate in decision to create an abbreviated school day for a child placed in foster care
- Extends to educational surrogate
- Unless ordered by the court, an abbreviated school day can only be implemented if the student's IEP team has provided the opportunity for the student's foster parent to meaningfully participate in a meeting to discuss the placement, including the reasonable opportunity to physically attend the meeting
- Meeting notice is in writing and informs the foster parent of the student's presumptive right to receive the same numbers of hours of instruction or educational services as other students, and the right to request a meeting of the IEP team.
- Notice must inform foster parent that the school district may not unilaterally place a student on an abbreviated school day program

Persons with disabilities

SENATE BILL

492

June 27, 2019

- Codifies state policy regarding family reunification in dependency cases.
- Parents or guardians of children involved in the dependency process through the juvenile court must be provided reunification services and opportunities equal to those parents and guardians without disabilities.

Child Abuse Hotline

SENATE BILL

804

May 24, 2019

Amends 419B.015 and 419B.017

- Updates law to reflect the centralized DHS hotline
- Abuse to be reported to county where abuse occurred, or if unknown, where the child resides, or where the reporter came into contact with child or alleged perpetrator of abuse.

CIRTs

SENATE BILL

832

July 15, 2019

Modifies provisions related to Critical Incident Review Teams (CIRTs)

- Declares the purpose of CIRTs
- Directs DHS to assign a CIRT upon becoming aware of a critical incident as defined in the measure.
- Modifies the composition of CIRTs to allow a local citizen review board member as well as a legislator to be included.
- Requires every CIRT to submit a final written report to DHS and requires reports to contain specified information.
- Directs DHS to publish certain information regarding the CIRT, as well as its report, on its website.
- Allows DHS to redact the final report only to the extent necessary to comply with state and federal laws governing confidential information.

(Voluntary) Foster Child will be considered resident of school district where foster home is located:

- For purposes of school district residency, a child voluntarily placed the child outside of the child's home, shall be considered a resident of the school district in which they now reside because of the placement.
- In cases where the voluntary placement is within 20 miles from the school the child attended prior to placement, and it is in the best interest of the child to attend the school attended prior to the placement, the child can continue to be a resident in the school district the child's parent or guardian resides in.
- Transportation for a child voluntarily placed is the responsibility of the child's resident school district.

School District

SENATE BILL

905

July 1, 2019

Placement of Children

SENATE BILL

924

June 13, 2019

Limits Use of Detention Facilities:

- *A.R., et al v. State of Oregon et al.*, was filed in the United States District Court for the District of Oregon. In a final settlement agreement of that case, DHS agreed to stop this practice and work to rehome the children who were placed in such facilities.
- prohibits the placement of a child or ward taken into protective custody from being placed into a detention facility.
 - There are exceptions as required by the Interstate Compact for Juveniles
 - A child or ward may be detained if that child or ward is under a material witness order or if the court determines that he or she is an out-of-state runaway.
 - The placement in the least restrictive setting and may include a detention facility if it is necessary to ensure the child or ward is not a danger to self or others pending the return of that child or ward to the home state.

Criminal Background Check

SENATE BILL

994

January 1, 2020

DHS to run criminal background check on non custodial parent

- Prior to releasing a child into the custody of a noncustodial parent, a person who has taken a child into protective custody shall request that DHS conduct a criminal records check.
- Includes all adults in the residence.

DHS- educational requirements

House Bill

2033

January 1, 2020

Removes BA/BS degree requirements for individuals who conduct child abuse investigations or make determination regarding protective custody of children

- An associates degree with additional training or certification in human services or related field as determined by rule.
- Maintains requirement for BA/BS degree for all other positions.

DHS- Budget

House Bill

5026

July 1, 2019

- DHS' Legislatively Approved Budget for 2019-2021 includes a 20% increase from 2017-2019... CW Highlights include:
 - Adds 356 Positions in Child Welfare Program:
 - 268 Case Workers
 - 46 Child Abuse Hotline
 - 17 Foster Parent Recruitment and Retention
 - 16 MAPS (Mentoring, Assisting & Promoting Success)
 - 9 CCWIS
 - Expands KEEP Program Statewide
 - Reduces SPRF budget by 50%
 - Restores LIFE funding & FTE at 17-19 levels
 - Strengthening Therapeutic Foster Care, Specialized Recruitment & Training to serve 69 youth
 - Aligns AG Budget to fund legal representation for CW
 - Homeless & Runaway Youth Program moved from CW to Self Sufficiency



HOT BILL: SENATE BILL 1008

- Effective September 29, 2019; applies to sentences after January 1, 2020
- Prohibits juvenile receiving life in prison without possibility of release
- Requires all juvenile offenses to be filed in juvenile court
 - Includes “Measure 11” offenses and multiple acts
 - State must request waiver to adult court
- Waiver hearing
 - Juvenile court must find by a *preponderance* that retaining jurisdiction will not serve the best interests of the youth and of society.
 - When a person waived under ORS 419C.349 is convicted of a Measure 11 offense, the court can impose at least the presumptive term of imprisonment provided for the offense however that person will be eligible for a hearing and conditional release under ORS 420A.203 and 420A.206 (second look hearings).
 - May consider: the amenability of the youth to treatment and rehabilitation given the techniques, facilities and personnel for rehabilitation available to the juvenile court and to the criminal court that would have jurisdiction after a transfer, the protection required by the community, given the seriousness of the offense alleged, and whether the youth can be safely rehabilitated under the jurisdiction of the juvenile court.



HOT BILL: SENATE BILL 1008 continued

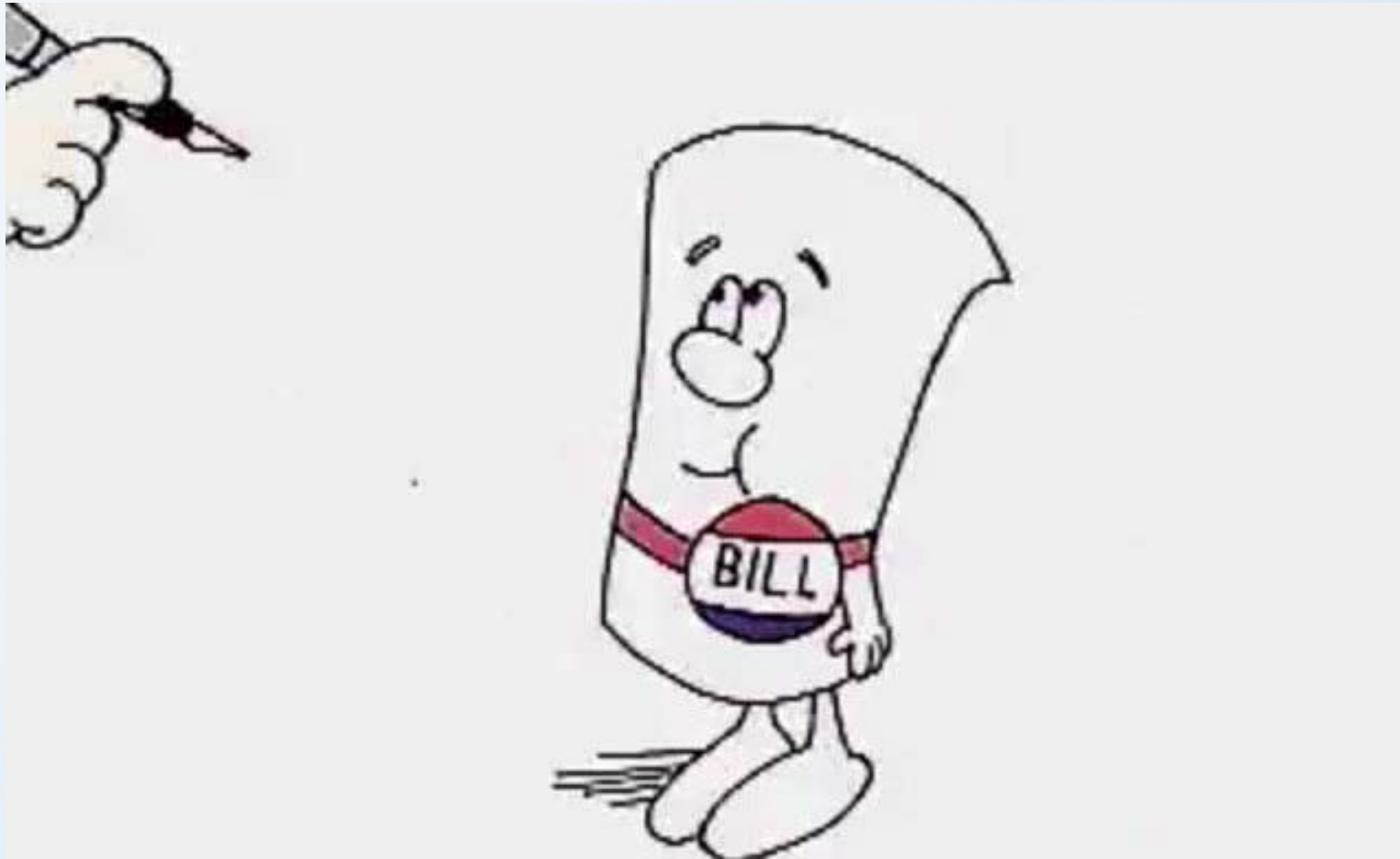
- Sentencing Factors:

- The person's age, intellectual capacity and impetuosity at the time of the offense.
- The person's family and community environment, history of trauma and prior involvement in the juvenile dependency system at the time of the offense.
- The person's ability at the time of the offense to appreciate the risks and consequences of the conduct constituting the offense.
- The person's community involvement prior to the offense.
- Any peer or familial pressure to which the person was subjected at the time of the offense
- Whether and to what extent an adult was involved in the commission of the offense.
- The person's capacity for rehabilitation.
- The person's school records and special education evaluations.
- Any other mitigating factors or circumstances presented by the person.
- The court is prohibited from considering the person's age at the time of committing the offense as an aggravating factor.



HOT BILL: SENATE BILL 1008 continued

- Second Look Hearing/Conditional Release:
 - Sentences after January 1, 2020
 - A person in the custody of the Oregon Youth Authority (OYA) for an offense committed while the person was under 18 years of age, for which the person was sentenced to term of imprisonment with a projected release date that falls after the person attains 25 years of age but before the person attains 27 years of age, will be eligible for a second look hearing and conditional release hearing.
 - When a person has served one-half of the sentence imposed, or when the person attains 24 years and 6 months of age, the sentencing court shall determine what further commitment or disposition is appropriate.



Thank you