

Juvenile Legislative Update

Through the Eyes of a Child Conference

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Legislation Involving Court Findings

Children in Foster Care: Visits during school hours

SB 279 (Effective June 15, 2021)

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB0279/Enrolled>

- ODHS shall schedule visitations, to the extent practicable, so the child will not miss school. The caseworker must keep a record of the number of days missed. *Visitation*, as defined by the new legislation, does not include medical appointments, court appearances, or interviews with law enforcement and ODHS.
- ODHS must collect data regarding school missed by children in care because of visits and submit reports to the legislature.

Children in Foster Care: Placement of High-Need Children

SB 85 (Effective June 23, 2021)

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB0085/Enrolled>

- Modifies law regarding Qualified Residential Treatment Programs.
- Updates the definition of *foster parent* in family group home setting, updates staffing ratio and training requirements, changes regarding secure transport of children and the placement of youth out of state.
- Requires ODHS to provide certain information to court and parties before placement hearing for out-of-state placement.

Children in Foster Care: Placement of High-Need Children

SB 85 (Effective June 23, 2021)

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB0085/Enrolled>

- ODHS may not place a child out of state if the facility provides care to *adjudicated youth* unless:
 - The child-care agency is a QRTP licensed by ODHS;
 - The child-care agency maintains accreditation from a nationally recognized org;
 - The child being placed is an *adjudicated youth*; and
 - The court makes certain findings....

Children in Foster Care: Placement of High-Need Children

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- The court's findings: Before the placement hearing, the court and all parties must be informed of the services offered and the population that is served. The court must find (Sec. 2 of SB 85):
 - Considering the nature of the services offered and composition of the population served;
 - The court has heard the report of the *qualified individual*; and
 - That the child's placement there is the least restrictive setting available to appropriately meet the child's treatment needs.

Court
Findings 

Children in Foster Care: Placement of High-Need Children

SB 85 (Effective June 23, 2021)

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB0085/Enrolled>

- *Qualified individual* is defined in chapter 19, Oregon Laws 2020 (first special sess.), section 13b.

https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2020S1OrLaws0019.pdf

Children in Foster Care: Placement of High-Need Children

SB 85 (Effective June 23, 2021)

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB0085/Enrolled>

- Changes placement restrictions for dependent wards who are 18 or older;
- Changes staffing requirements;
- Changes data collection and reporting to the legislature;
- Prohibits disqualification from providing child welfare services because of personal history of receiving services as a child and on identity factors (race, religion, ethnicity...)
- Prohibits retaliation against a child for speaking about their experience in the child welfare system.

*Legislation Involving the Care and Rights of
Children in Substitute Care*

Children in Foster Care: Restraint and Involuntary Seclusion

SB 710 (Effective September 1, 2021)

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB0710/Enrolled>

- Describes when restraint and involuntary seclusion may and may not be used on children in care, requires training and certification of those who use it, record-keeping, reporting, and notification regarding all uses.
- ODHS shall adopt training standards and certification for those who use restraint and voluntary seclusion on children in care.
- Requirements for secure transport of children in care.
- Reports to the legislature.

Children in Foster Care: Psychotropic Medication

HB 2333 (Effective 1/1/2022)

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB2333/Enrolled>

- ODHS must provide a quarterly report to the legislature that reports how many children in care are receiving psychotropic medication and how many of these medications the children are receiving.
- Reports will not be provided directly to the courts, but data will be provided by district, so judges will have general information about rates in their local areas.

Children in Foster Care: Children's Right to Civil Remedy

SB 707 (Effective July 14, 2021)

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB0707/Enrolled>

- ODHS must provide notice to each child or ward who was placed in an out-of-state residential facility for any duration of time between 1/1/2016 and 6/30/20.
- Notice also to be provided to the child's representatives (attorney, bio parent not terminated, adoptive parent, CASA, guardian, GAL and any other person designated by a ward or former ward over 18, if designated in writing).
- Notice must include the right to seek a civil remedy for any negligent treatment received in such placement.
- ODHS has a duty to actively seek and collect all documentation relating to children's placement out-of-state and maintain it for 20 years.

Misc. Juvenile Dependency Legislation

Equity and Diversity: Child Foster Care Advisory Commission

HB 2505 (Effective January 1, 2022)

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB2505/Enrolled>

- CFCAC to establish a Child Welfare Equity Advisory Committee (CWEAC). A majority of members must come from communities that have been historically overrepresented in the child welfare system.
- CFCAC must now include members with lived child welfare experience (current or former foster parents, foster children, family of such parents or children, and biological parents).
- Expands the agencies that CFCAC advises beyond ODHS to include OHA and OYA.

Court Appointed Special Advocates (CASA)

HB 2738 (Effective January 1, 2022)

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB2738/Enrolled>

- All local CASA programs will be overseen by a "statewide coordinating entity" (The Oregon CASA Network), to ensure compliance with appropriate standards and practices.
- The statewide coordinating entity will provide education and training.
- Local CASA programs may not receive funds until they have submitted their annual diversity, equity, inclusion and accountability program report.

Oregon Indian Child Welfare Act Amendments

Oregon Indian Child Welfare Act (ORICWA)

SB 562 - <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB0562/Enrolled>

- Substantive provisions become effective January 2, 2022, except for the tribal customary adoption provisions, which become effective September 25, 2021.

SB 562 is a clean up of the original ORICWA bill - HB 4214 (2020)(1st Spec Sess).

In depth memos and trainings will be coming later this year.

Overview of SB 562 ORICWA Updates

- Applies ORICWA to adoption and voluntary placement proceedings.
- Clarifies ORICWA inquiry requirements regarding the minimum efforts for a person to decide if they have a reason to know a child is an Indian child. Requires the court to find whether a person has satisfied these minimum efforts.
- At the commencement of any hearing in which the court is required to inquire whether a child is an Indian child, it must ask, on the record, each individual present whether that person has reason to know the child is an Indian child.
- Provides a process to petition to vacate an order or judgment regarding jurisdiction, placement, guardianship or TPR for violations of ORICWA.
- Clarifies rules for establishing paternity when a child is an Indian child. Requires courts to order blood tests within 30 days of oral or written acknowledgement or notice.

Overview of SB 562 ORICWA Updates

- Allows the juvenile court to permit more than one tribe to participate in dependency and TPR proceedings in an advisory capacity or as a party.
- If the court continues a youth in out of home placement in a delinquency proceeding, it must determine pursuant to ORICWA requirements if there is reason to know that the *adjudicated youth* (youth offender) is an Indian child.
- Establishes provisions to support, recognize and accept tribal customary adoption orders in Oregon courts.
- If requested by the child's tribe, requires an agreement to be in place with the adoptive resource for ongoing cultural connection and contact prior to finalizing an adoption or guardianship.

Tribal Customary Adoptions

- Tribal customary adoption is the adoption of an Indian child, by and through the tribal customs, traditions or law of the child's tribe. A tribal customary adoption order can only be issued by the tribe. The state court accepts the tribal customary adoption order, assuming it meets certain requirements, and issues a judgment of adoption.
- The court must determine that tribal customary adoption is in the Indian child's best interest. The child's tribe must also consent. However, the consent of the Indian child or the child's parents is not required.

Tribal Customary Adoptions

- A tribal customary adoption can be done **without** termination of parental rights.
- The court must consider tribal customary adoption as a permanency plan for Indian children when reunification is not possible.
- Makes tribal customary adoption a compelling reason to determine that the filing of a TPR petition would not be in the best interest of a child.

Highlighted Delinquency Legislation

Expunction

SB 575 (Effective September 25, 2021)

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB575/Enrolled>

- Expunges juvenile records that could have resulted in a delinquency petition being filed but did not.
- Requires a juvenile department to initiate the expunction process and issue notice if the person does not have an open referral for a case by informal means and has not had contact with the department resulting in a conviction as an offender waived to adult court

Elimination of Fines and Fees

SB 817 (Effective September 25, 2021)

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB0817/B-Engrossed>

- Eliminates fines, costs, and fees associated with juvenile delinquency matters.
- Judgments entered before January 1, 2022, for such fines, costs, and fees are considered satisfied. (Payments made toward such judgments before the operative date will not be reimbursed.)



Questions?