

78th Oregon Legislative Assembly - 2016 Regular Session
STAFF MEASURE SUMMARY
House Committee On Judiciary

****CORRECTED****

MEASURE: HB 4074 A

CARRIER: Rep. Olson

Fiscal: Has minimal fiscal impact

Revenue: No Revenue Impact

Action Date: 02/10/16

Action: Do Pass With Amendments. (Printed A-Eng.)

Meeting Dates: 02/09, 02/10

Vote:

Yeas: 9 - Barker, Barton, Greenlick, Krieger, Lininger, Olson, Post, Sprenger, Vega Pederson

Prepared By: Whitney Perez, Counsel

WHAT THE MEASURE DOES:

Requires person adjudicated or found responsible except for insanity by the juvenile court for an act that, if committed by adult, would constitute a felony sex crime, to report as sex offender if jurisdiction ended prior to August 12, 2015, or if directed by court. Requires court to hold hearing to determine issue of reporting if person was adjudicated on or after August 12, 2015, or was adjudicated before that date, but person still under jurisdiction. Directs hearing to occur within six-months before termination of jurisdiction, unless court finds good cause to continue hearing. Creates hearing procedures for persons adjudicated before August 12, 2015, but under jurisdiction on that date who ceased to be under jurisdiction before effective date. Provides person may waive hearing after consultation with attorney. Includes juveniles who were adjudicated prior to August 12, 2015, and were still under jurisdiction after that date, but jurisdiction terminated before the effective date of this act. Provides that if individual within particular group has not already submitted an initial report they will be required to do so within 120 days. Entitles individuals in group to hearing on the issue of reporting and details requirements of hearing. Adds authority for court to order person to report if that person fails to appear at hearing on issue of reporting. Modifies current law regarding who may inspect or copy record of case or supplemental confidential file in juvenile court proceedings to include other entities. Provides procedures for other persons or entities not otherwise allowed to inspect or copy record or file to obtain court order allowing inspection or copying. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Corrects gap in House Bill 2320 (2015)
- Encompasses larger group of juveniles
- Provides procedures for obtaining juvenile court records
- Harmonizes statutes with Oregon Constitution

EFFECT OF COMMITTEE AMENDMENT:

Includes a fourth group of juveniles who were adjudicated prior to August 12, 2015, and were still under jurisdiction after that date, but jurisdiction terminated before the effective date of this act. Provides that if group has not already submitted an initial report they will be required to do so within 120 days. Entitles individuals in group to a hearing on the issue of reporting and details requirements of hearing. Adds authority for court to order person to report if that person fails to appear at hearing on issue of reporting. Adds confirming and clarifying language.

BACKGROUND:

House Bill 2320 was enacted in the 2015 legislative session. The measure provided a hearing on the issue of reporting as a sex offender for juveniles found to be within the jurisdiction of the juvenile court. HB 2320 also amended ORS 163A.025, which governs the reporting requirements, to apply to juveniles who have been ordered to report following this hearing. An unforeseen consequence of this latter provision is that it negated the registration requirements for juveniles adjudicated prior to August 12, 2015, the effective date of HB 2320.

House Bill 4074 corrects this error and also addresses procedural issues related to these hearings.

****CORRECTED****

Additionally, current law provides a provision that “any other person allowed by the court” may inspect and/or copy juvenile court files. Senate Bill 622 (2013) added this provision in order to grant the court authority and discretion to allow inspection or copying of juvenile court files on a case-by-case basis. There is concern that this current provision does not provide adequate guidance to the court on who should be entitled to inspect or copy juvenile court records.

HB 4074 provides that these other persons or entities must file a motion requesting inspection or copying of the juvenile court file. The motion must include an affidavit explaining why inspection or copying is needed, the relevancy to the juvenile court proceeding, and how the inspection or copying balances the following interests: the privacy interests and vulnerabilities of the child or family members affected by inspection, the interests of other parties or victims, the interests of the person or entity requesting the records and the interests of the public. If the court determines that the requesting party has met the above described requirements, the court must conduct an in camera review of the records. When determining what records should be disclosed following the in camera review, the court should weigh the privacy interests involved. If the motion is granted, the court can limit inspection or copying, specify procedures for the inspection or copying, and shall create protective orders pertaining to the use of the materials.