

A-Engrossed Senate Bill 371

Ordered by the Senate March 29
Including Senate Amendments dated March 29

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Establishes pilot programs for purpose of appointing legal counsel for children in [*contested domestic relations*] **certain contested child custody and parenting time** proceedings. Sunsets pilot programs on January 2, 2025. Appropriates moneys for pilot programs.
[Takes effect on 91st day following adjournment sine die.]

A BILL FOR AN ACT

1
2 Relating to appointment of attorneys for children in domestic relations proceedings.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) The office of public defense services established under ORS 151.216, in**
5 **collaboration with the Judicial Department, shall administer three pilot programs to provide**
6 **court-appointed legal counsel for children in contested child custody and parenting time**
7 **proceedings, except proceedings under ORS 107.700 to 107.735. The office shall develop, im-**
8 **plement and provide administrative oversight of three pilot programs under this section, one**
9 **in a rural area, one in an urban area and one in a mixed urban-rural area of this state.**

10 **(2) The purpose of the pilot programs is to appoint legal counsel for children in contested**
11 **child custody and parenting time proceedings, except proceedings under ORS 107.700 to**
12 **107.735, to ensure that children's voices are heard, children's interests are represented and**
13 **the risk of harm to children is minimized.**

14 **(3) The Oregon State Bar shall convene an advisory committee of experts to develop**
15 **performance standards for attorneys appointed for children under this section.**

16 **(4) The office of public defense services shall establish minimum qualifications under this**
17 **section for court-appointed legal counsel, including but not limited to a minimum number**
18 **of recent hours of relevant continuing legal education classes, relevant legal experience and**
19 **knowledge of child development.**

20 **(5)(a) The office of public defense services, in consultation with the Judicial Department,**
21 **shall establish eligibility criteria for the court to determine whether a child requires court-**
22 **appointed legal counsel.**

23 **(b) The office of public defense services shall:**

24 **(A) Establish eligibility criteria for whether the parties require financial assistance to**
25 **pay the court-appointed legal counsel and a procedure for parties to contribute to the fees,**
26 **expenses and costs of the court-appointed legal counsel, to the extent the parties are able**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 to do so;

2 (B) Determine reasonable compensation for court-appointed legal counsel, including court
3 costs and expenses, for the representation of a child in contested child custody and parenting
4 time proceedings;

5 (C) Administer a grant program to pay the fees, costs and expenses of court-appointed
6 legal counsel under this section;

7 (D) Establish criteria for the local administration of the pilot programs, including for-
8 mation of local advisory committees; and

9 (E) Collect data regarding the pilot programs from the attorneys in the areas in which
10 the pilot programs are implemented.

11 (6) Upon appointment of court-appointed legal counsel for a child under this section, the
12 court shall enter an order:

13 (a) Granting the court-appointed legal counsel access to the child and any relevant doc-
14 uments; and

15 (b) On any other issues regarding the attorney's representation of the child that the
16 court determines appropriate.

17 (7) Court-appointed legal counsel appointed for a child under this section shall:

18 (a) As soon as practicable following appointment, meet with the child in person or, if the
19 child is too young to be interviewed, at a minimum, observe the child.

20 (b) Make reasonable efforts to obtain information relevant to the issues affecting the
21 child.

22 (c) Make reasonable efforts to determine what services the family needs to facilitate re-
23 solution of any dispute regarding custody or allocation of parental responsibilities, make ap-
24 propriate recommendations to the parties and seek appropriate relief in court, if required.

25 (d) Determine whether a settlement of any dispute regarding custody or allocation of
26 parental responsibilities can be achieved by agreement and, to the extent feasible, attempt
27 to resolve disputes by an agreement.

28 (8)(a) Nothing in this section shall interfere with the right of a court to appoint counsel
29 for a child under ORS 107.425.

30 (b) Notwithstanding ORS 107.425, a reasonable fee for an attorney appointed under this
31 section may be charged against funds appropriated for public defense services.

32 (9) The office of public defense services shall submit an annual report regarding the
33 status of the pilot programs to the interim committees of the Legislative Assembly related
34 to domestic relations no later than September 15 of each year.

35 (10) The Public Defense Services Commission may adopt rules to implement the pro-
36 visions of this section.

37 **SECTION 2.** Section 1 of this 2019 Act is repealed on January 2, 2025.

38 **SECTION 3.** (1) Section 1 of this 2019 Act becomes operative on July 1, 2020.

39 (2) The Public Defense Services Commission may take any action before the operative
40 date specified in subsection (1) of this section that is necessary for the commission to exer-
41 cise, on and after the operative date specified in subsection (1) of this section, all of the du-
42 ties, functions and powers conferred on the commission by section 1 of this 2019 Act.

43 **SECTION 4.** In addition to and not in lieu of any other appropriation, there is appropri-
44 ated to the Public Defense Services Commission, for the biennium beginning July 1, 2019, out
45 of the General Fund, the amount of \$_____ for the purpose of carrying out the provisions

1 **of section 1 of this 2019 Act.**

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