

2017 LEGISLATION ALERTS

Juvenile Law

HB 2216 (Ch. 36) Foster Children's Sibling Bill of Rights

HB 2216 creates new provisions establishing the Oregon Foster Children's Sibling Bill of Rights. The bill provides that siblings who are foster children have certain rights, which include the right to obtain substitute care placement together, the right to maintain contact and visits with siblings, and an age-appropriate explanation for why contact with a sibling has been denied or prohibited. These rights apply regardless of whether the parental rights of one or more of the foster child's parents have been terminated.

HB 2216 goes into effect on January 1, 2018.

SB 241 (Ch. 447) Bill of Rights of Children of Incarcerated Parents

SB 241 creates new provisions requiring the Department of Corrections (DOC) to develop guidelines for making decisions that impact incarcerated individuals with children using the Bill of Rights of Children of Incarcerated Parents established by the bill.

SB 241 takes effect on January 1, 2018.

SB 942 (Ch. 740) Child Abuse Investigations

SB 942 requires child abuse investigations conducted pursuant to ORS 419B.020 to conclude with a finding of "founded," "unfounded," or "cannot be determined" until several specific criteria are met. Among these criteria are that departments complete investigations within mandated timelines and conduct in-person contacts with children who are the subject of reports of abuse in at least 90 percent of cases.

SB 942 took effect on August 15, 2017.

HB 2616 (Ch. 389) Right to Counsel

HB 2616 amends ORS 419C.200 to provide that when a petition is filed under ORS 419C.050, the court, following a determination that a youth is indigent:

1. Shall appoint counsel to represent the youth at all stages of the proceeding if the offense alleged in the petition is classified as a crime.
2. Shall appoint counsel at any proceeding concerning an order of probation.
3. Shall appoint counsel in any case in which the youth would be entitled to appointed counsel if the youth were an adult charged with the same offense.
4. May appoint counsel in any other proceeding under ORS 419C.005.

HB 2616 also provides that the court may not accept a waiver of counsel by a youth except under the following circumstances:

1. The youth is at least 16 years of age; and
2. The youth has met with either appointed or retained counsel and has been advised regarding the right to counsel; and
3. A written waiver is filed with the court; and
4. A hearing is held to determine whether the waiver was knowingly, intelligently, and voluntarily made and not unduly influenced by the interests of others, including the youth's parents or guardians.

These requirements do not apply to a youth entering into a formal accountability agreement under ORS 419C.230.

HB 2616 also amends ORS 419C.245 to require that a juvenile department counselor inform a youth and the youth's parents or guardians of the right to court-appointed counsel, and that a youth may waive the right to counsel before entering into a formal accountability agreement only if the youth has been advised in writing of the right to counsel and the youth waives that right in writing.

HB 2616 takes effect on January 1, 2018.

HB 3242 (Ch. 431) Recording Custodial Interviews

HB 3242 amends ORS 133.400 to provide that a custodial interview conducted by a peace officer in a law enforcement facility shall be electronically recorded if the interview is conducted "with a person under 18 years of age in connection with an investigation into a felony, or an allegation that the person being interviewed committed an act that, if committed by an adult, would constitute a felony."

HB 3242 further provides that if the State offers an unrecorded statement in a juvenile delinquency proceeding and none of the exceptions in the statute apply, the court "shall consider the superior reliability of electronic recordings when compared

with testimony about what was said and done when determining the evidentiary value of the statement."

HB 3242 takes effect on January 1, 2018.

SB 49 (Ch. 558) Juvenile Fitness to Proceed

SB 49 amends ORS 419C.380 to provide that when a youth is ordered to participate in a fitness-to-proceed evaluation, the youth may not be removed from his or her current placement for the purpose of the evaluation unless the youth has been placed in a detention or youth correctional facility.

SB 49 takes effect on January 1, 2018.