

Senate Bill 814

Sponsored by Senator GELSER

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 **as introduced**.

Directs Department of Human Services to provide notice to parents or legal guardians regarding voluntary adoption options, including options for post-adoption contact agreements, prior to termination of parental rights.

A BILL FOR AN ACT

1
2 Relating to notification of voluntary adoption options prior to termination of parental rights; creat-
3 ing new provisions; and amending ORS 418.270 and 419B.498.

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

5 **SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 419B.**

6 **SECTION 2. (1) Prior to the termination of the parental rights of a parent or legal**
7 **guardian of a child or ward under ORS 418.270 or 419B.500, the Department of Human Ser-**
8 **vices shall provide notice to the parent or legal guardian regarding options for voluntary**
9 **adoption under ORS 109.305 to 109.410. The notice must:**

10 (a) **Inform the parent or legal guardian of the parent or legal guardian's rights and**
11 **options to seek a voluntary adoption of the child or ward, including information regarding**
12 **the parent or legal guardian's right to participate in the selection of the prospective adoptive**
13 **parents.**

14 (b) **Include a description of the qualifications for prospective adoptive parents and the**
15 **voluntary adoption process under ORS 109.305 to 109.410.**

16 (c) **Provide information regarding options for continuing contact between the child's**
17 **birth relatives, as defined in ORS 109.305 (5), and the child or adoptive parents under ORS**
18 **109.305, including the process for court approval of any post-adoption contact agreement and**
19 **the consequences of an invalid post-adoption contact agreement.**

20 (d) **Provide instructions for requesting a department referral to a regulated social worker**
21 **employed by an Oregon licensed adoption agency.**

22 (e) **Include notice of a birth parent's right to adoption-related counseling under ORS**
23 **109.346 following a voluntary adoption under ORS 109.305 to 109.410.**

24 (f) **Include a statement that a termination of parental rights proceeding under ORS**
25 **419B.500 is independent of any voluntary adoption proceeding under ORS 109.305 to 109.410.**

26 (2) **The department may not refer a parent or legal guardian to a regulated social worker**
27 **under this section if the regulated social worker is assigned to the prospective adoptive**
28 **parent.**

29 (3) **The department shall provide the notice described in subsection (1) of this section**
30 **prior to taking an infant into protective custody if the infant is 30 days or age or younger**
31 **as determined to a reasonable degree of medical certainty.**

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 **SECTION 3.** ORS 418.270 is amended to read:

2 418.270. (1)(a) If licensed for such purposes by the Department of Human Services, a child-caring
3 agency may receive children from the children's parents or legal guardians for special, temporary
4 or continued care. The parents or guardians may sign releases or surrenders giving to the agency
5 guardianship and control of the children during the period of care, which may be extended until the
6 children arrive at legal age. *[Releases do not surrender the rights of parents or guardians in respect
7 to the adoption of children and do not entitle the agency to give consent to the adoption of the children
8 unless the release or surrender expressly recites that the release or surrender is given for the purpose
9 of adoption. Child-caring agencies are authorized to place children for adoption or family foster care
10 only if authorized by the department in the license issued by the department to the agency.]*

11 **(b) A child-caring agency is authorized to place a child received under paragraph (a) of
12 this subsection for adoption or family foster care only if:**

13 **(A) The department has authorized the agency to place children for adoption or family
14 foster care in the agency's license;**

15 **(B) The release or surrender described in paragraph (a) of this subsection expressly re-
16 cites that the release or surrender is given for the purpose of adoption; and**

17 **(C) The department has provided the parents or guardians with the notice described in
18 section 2 of this 2019 Act. The agency may not provide the parents or guardians with the
19 notice described in section 2 of this 2019 Act unless the parents or guardians request infor-
20 mation regarding adoption options or the release or surrender meets the requirements of
21 subparagraph (B) of this paragraph.**

22 (2) Severance of family ties with children by adoption or otherwise may be accomplished only
23 by the order of a court of competent jurisdiction.

24 (3) In the absence of the certificate provided for in subsection (4) of this section, it is unlawful
25 to present a child released or surrendered to a child-caring agency by a parent, parents or guardian
26 for a court to pass upon the adoption of the child until at least six months have elapsed after signing
27 the release or surrender.

28 (4) Parents or guardians who have given a child into the guardianship of a child-caring agency
29 by release or surrender under this section for the purpose of adoption may, concurrently or subse-
30 quently and without any adoption proceeding having been initiated, agree that the release or sur-
31 render shall become irrevocable as soon as the child is placed by the agency in the physical custody
32 of a person or persons for the purpose of adoption, and waive their right to personal appearance in
33 court in matters of adoption of the child, by a duly signed and attested certificate. From and after
34 physical placement for adoption, the certificate of irrevocability and waiver and the release or sur-
35 render may not be revoked by the parent or guardian unless fraud or duress is affirmatively proved.

36 (5) No agreement to release or surrender a child for adoption, or other agreement or waiver of
37 rights having the same effect, executed before March 24, 1971, in connection with the surrender of
38 a child into the guardianship of a child-caring agency for purposes of adoption, may be revoked or
39 held invalid for any reason except upon affirmative proof of fraud or duress.

40 **SECTION 4.** ORS 419B.498 is amended to read:

41 419B.498. (1) Except as provided in subsection (2) of this section, the Department of Human
42 Services shall simultaneously file a petition to terminate the parental rights of **the parent of** a child
43 or *[ward's parents]* **ward, provide the parents with the notice regarding options for voluntary
44 adoption described under section 2 of this 2019 Act,** and identify, recruit, process and approve
45 a qualified family for adoption if the child or ward is in the custody of the department and:

1 (a) The child or ward has been in substitute care under the responsibility of the department for
2 15 months of the most recent 22 months;

3 (b) A parent has been convicted of murder of another child of the parent, voluntary
4 manslaughter of another child of the parent, aiding, abetting, attempting, conspiring or soliciting to
5 commit murder or voluntary manslaughter of the child or ward or of another child of the parent or
6 felony assault that has resulted in serious physical injury to the child or ward or to another child
7 of the parent; or

8 (c) A court of competent jurisdiction has determined that the child or ward is an abandoned
9 child.

10 (2) The department shall file a petition to terminate the parental rights of a parent in the cir-
11 cumstances described in subsection (1) of this section unless:

12 (a) The child or ward is being cared for by a relative and that placement is intended to be
13 permanent;

14 (b) There is a compelling reason, which is documented in the case plan, for determining that
15 filing such a petition would not be in the best interests of the child or ward. Such compelling rea-
16 sons include, but are not limited to:

17 (A) The parent is successfully participating in services that will make it possible for the child
18 or ward to safely return home within a reasonable time as provided in ORS 419B.476 (5)(c);

19 (B) Another permanent plan is better suited to meet the health and safety needs of the child or
20 ward, including the need to preserve the child's or ward's sibling attachments and relationships; or

21 (C) The court or local citizen review board in a prior hearing or review determined that while
22 the case plan was to reunify the family the department did not make reasonable efforts or, if the
23 Indian Child Welfare Act applies, active efforts to make it possible for the child or ward to safely
24 return home; or

25 (c) The department has not provided to the family of the child or ward, consistent with the time
26 period in the case plan, such services as the department deems necessary for the child or ward to
27 safely return home, if reasonable efforts to make it possible for the child or ward to safely return
28 home are required to be made with respect to the child or ward.

29 (3) No petition to terminate the parental rights of a child or ward's parents pursuant to sub-
30 section (1) of this section or pursuant to ORS 419B.500, 419B.502, 419B.504, 419B.506 or 419B.508
31 may be filed until the court has determined that the permanency plan for the child or ward should
32 be adoption after a permanency hearing pursuant to ORS 419B.476.

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