

HOUSE AMENDMENTS TO RESOLVE CONFLICTS TO SENATE BILL 792

By COMMITTEE ON RULES

June 22

1 On page 1 of the printed bill, line 2, after “children;” delete the rest of the line and insert
2 “creating new provisions; amending ORS 30.298 and 192.355; repealing section 4, chapter ____,
3 Oregon Laws 2021 (Enrolled Senate Bill 193); and declaring an emergency.”.

4 On page 8, after line 30, insert:

5 **“SECTION 1a. If both Senate Bill 193 and Senate Bill 436 become law, section 4, chapter**
6 **____, Oregon Laws 2021 (Enrolled Senate Bill 193) (amending ORS 30.298), is repealed and ORS**
7 **30.298, as amended by section 8, chapter ____, Oregon Laws 2021 (Enrolled Senate Bill 436), is**
8 **amended to read:**

9 “30.298. (1) Except as otherwise provided in this section, the Department of Human Services is
10 liable, without regard to fault, for injury to the person of foster parents or damage to the property
11 of foster parents caused by a foster child if the foster child is residing in:

12 “(a) A foster home that is maintained by the foster parents and that has been certified by the
13 department under the provisions of ORS 418.625 to 418.645;

14 “(b) An approved home that is maintained by the foster parents and that is receiving payment
15 from the department under the provisions of ORS 418.027 or under the provisions of ORS 420.810
16 and 420.815; or

17 “(c) A developmental disability child foster home that has been certified by the department un-
18 der the provisions of ORS 443.830 and 443.835.

19 “(2) Except as otherwise provided in this section, the Oregon Youth Authority is liable, without
20 regard to fault, for injury to the person of foster parents or damage to the property of foster parents
21 caused by an adjudicated youth if the adjudicated youth resides in an adjudicated youth foster home
22 that is maintained by the foster parents and that has been certified by the authority under the
23 provisions of ORS 420.888 to 420.892.

24 “(3) Except as otherwise provided in this section, the liability of the department and of the au-
25 thority under this section is subject to the same requirements and limitations provided in ORS
26 30.260 to 30.300, and a claim under this section shall be treated as a claim for damages within the
27 scope of ORS 30.260 to 30.300 for the purposes of ORS 278.120.

28 “(4) Notwithstanding ORS 30.260 to 30.300:

29 “(a) In no event shall the liability of the department or the authority under this section exceed
30 \$5,000 for any number of claims arising out of a single occurrence;

31 “(b) The liability of the department and the authority under this section is limited to economic
32 damages, and in no event shall the department or the authority be liable for noneconomic damages;

33 “(c) The department and the authority are liable under this section only to the extent the loss
34 is not covered by other insurance; and

35 “(d) No claim shall be allowed under this section unless written notice of the claim is delivered

1 to the Oregon Department of Administrative Services within 90 days after the alleged loss or injury.

2 “(5) The department and the authority are not liable under this section for:

3 “(a) Damage to or destruction of currency, securities or any other intangible property;

4 “(b) The unexplained disappearance of any property; or

5 “(c) Loss or damage that is due to wear and tear, inherent vice or gradual deterioration.

6 “(6) In no event does the liability of the department or the authority under this section for
7 damage to property exceed the difference between the fair market value of the property immediately
8 before its damage or destruction and its fair market value immediately thereafter. The department
9 and the authority are not liable for the costs of any betterments to the property that may be re-
10 quired by code, statute or other law as a condition of repair, replacement or reconstruction.

11 “(7) The liability imposed under this section is in addition to that imposed for the intentional
12 torts of a foster child or adjudicated youth under ORS 30.297, but any amounts paid under this
13 section shall reduce any recovery that may be made under ORS 30.297.

14 “(8) For the purposes of this section:

15 “(a) ‘Adjudicated youth’ has the meaning given **that term** in ORS 419A.004.

16 “(b) ‘Authority’ means the Oregon Youth Authority.

17 “(c) ‘Department’ means the Department of Human Services.

18 “(d) ‘Economic damages’ and ‘noneconomic damages’ have [*those meanings given in ORS 31.710*]
19 **the meanings given those terms in ORS 31.705.**

20 “(e) ‘Foster child’ has [*that*] **the** meaning given **that term** in ORS 30.297.

21 “**SECTION 1b. If both Senate Bill 193 and Senate Bill 436 become law, the amendments**
22 **to ORS 30.298 by section 1a of this 2021 Act become operative on January 1, 2022.”.**

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