

Requested by Representative SANCHEZ

**PROPOSED AMENDMENTS TO
HOUSE BILL 3182**

1 In line 2 of the printed bill, before the period insert “; creating new pro-
2 visions; amending ORS 419B.449, 419B.476 and 419B.498; and prescribing an
3 effective date”.

4 Delete lines 4 through 7 and insert:
5

6 **“TRIBAL CUSTOMARY ADOPTIONS**
7

8 **“SECTION 1. Section 2 of this 2021 Act is added to and made a part**
9 **of sections 1 to 23, chapter 14, Oregon Laws 2020 (first special session).**

10 **“SECTION 2. (1) As used in this section, ‘tribal customary**
11 **adoption’ means the adoption of an Indian child, by and through the**
12 **tribal custom, traditions or law of the child’s tribe, and which may**
13 **be effected without the termination of parental rights.**

14 **“(2) If the juvenile court determines that tribal customary adoption**
15 **is in the best interests, as described in section 5, chapter 14, Oregon**
16 **Laws 2020 (first special session), of a ward who is an Indian child and**
17 **the child’s tribe consents to the tribal customary adoption:**

18 **“(a) The court must accept a tribal customary adoptive home study**
19 **conducted by the Indian child’s tribe if the home study:**

20 **“(A) Includes federal, state and tribal criminal background checks,**
21 **including reports of child abuse, that meet the standards applicable**

1 **under the laws of this state for all other proposed adoptive placements;**

2 **“(B) Uses the prevailing social and cultural standards of the Indian**
3 **child’s tribe as the standards for evaluation of the proposed adoptive**
4 **placement;**

5 **“(C) Includes an evaluation of the background, safety and health**
6 **information of the proposed adoptive placement, including the biolog-**
7 **ical, psychological and social factors of the proposed adoptive place-**
8 **ment and assessment of the commitment, capability and suitability**
9 **of the proposed adoptive placement to meet the Indian child’s needs;**
10 **and**

11 **“(D) Is completed prior to the placement of the Indian child in the**
12 **proposed adoptive placement.**

13 **“(b)(A) The court may not accept the tribe’s order or judgment of**
14 **tribal customary adoption if any adult living in the proposed adoptive**
15 **placement has a felony conviction for child abuse or neglect, spousal**
16 **abuse, crimes against a child, including child pornography or a crime**
17 **involving violence.**

18 **“(B) As used in this paragraph, ‘crime involving violence’ has the**
19 **meaning described by the Department of Human Services by rule,**
20 **which must include rape, sexual assault or homicide, but may not in-**
21 **clude other physical assault or battery.**

22 **“(c) The court may not accept a tribe’s order or judgment for tribal**
23 **customary adoption unless the order or judgment:**

24 **“(A) Includes a description of the modification of the legal re-**
25 **lationship of the Indian child’s parents or Indian custodian and the**
26 **child, including contact, if any, between the child and the parents or**
27 **Indian custodian, responsibilities of the parents or Indian custodian**
28 **and the rights of inheritance of the parents and child;**

29 **“(B) Includes a description of the Indian child’s legal relationship**
30 **with the tribe; and**

1 **“(C) Does not include any child support obligation from the Indian**
2 **child’s parents or Indian custodian.**

3 **“(d)(A) A tribal customary adoption under this section does not**
4 **require the consent of the Indian child or the child’s parents.**

5 **“(B) The department shall prescribe by rule a procedure for the**
6 **Indian child or the child’s parents to contest a tribal customary**
7 **adoption under this section. The procedure must afford the Indian**
8 **child and the child’s parent the same rights and opportunity to be**
9 **heard that is afforded to an Indian child and parent in a proceeding**
10 **for the termination of parental rights.**

11 **“(e) The department must provide the proposed tribal customary**
12 **adoptive parents with a written report on the Indian child, including,**
13 **to the extent not otherwise prohibited by state or federal law, the**
14 **child’s medical background and, if available, the medical background**
15 **of the child’s parents, all known diagnostic information regarding the**
16 **child, including current medical reports, psychological evaluations,**
17 **educational information and developmental history.**

18 **“(3)(a) The juvenile court shall accept an order or judgment for**
19 **tribal customary adoption that meets the requirements established by**
20 **the department by rule, consistent with the provisions of this section,**
21 **if the court determines that tribal customary adoption is the most**
22 **appropriate permanent placement option for the Indian child and in**
23 **the Indian child’s best interests, as described in section 5, chapter 14,**
24 **Oregon Laws 2020 (first special session).**

25 **“(b) The court shall afford full faith and credit to a tribal custom-**
26 **ary adoption that is accepted by the court.**

27 **“(c) Upon the court’s acceptance of a tribe’s tribal customary**
28 **adoption order or judgment, the court shall proceed as provided in**
29 **ORS 109.307 and 109.350 and enter a judgment of adoption. The judg-**
30 **ment of adoption must include a statement that any parental rights**

1 or obligations not specified in the judgment are vested in the tribal
2 customary adoptive parents and a description of any parental rights
3 or duties retained by the Indian child’s parents, the rights of
4 inheritance of the child and the child’s parents and the child’s legal
5 relationship with the child’s tribe.

6 “(d) Upon the court’s entry of a judgment of adoption under this
7 section, the court’s jurisdiction over the Indian child terminates as
8 provided in ORS 419B.328 (2)(d).

9 “(4) Any parental rights or obligations not specifically retained by
10 the Indian child’s parents in the juvenile court’s adoption judgment
11 are conclusively presumed to vest in the tribal customary adoptive
12 parents.

13 “(5) This section shall remain operative only to the extent that
14 compliance with the provisions of this section does not conflict with
15 federal law as a condition of receiving funding under Title IV-E of the
16 Social Security Act.

17 “(6)(a) The Department of Human Services shall adopt rules re-
18 quiring that any report regarding a ward who is an Indian child that
19 the department submits to the court, including home studies, place-
20 ment reports or other reports required under ORS chapters 109, 418,
21 419A and 419B, must address the option of tribal customary adoption.

22 “(b) The department shall adopt rules regarding the confidentiality
23 of records related to tribal customary adoption, consistent with the
24 confidentiality afforded adoption records under ORS chapter 109.

25 “(c) The department shall adopt rules regarding the procedure re-
26 quired for tribal customary adoptions, consistent with the provisions
27 of this section.

28 “(d) The Chief Justice of the Supreme Court shall make rules nec-
29 essary for the court processes to implement the provisions of this
30 section.

1 **“(e) The State Court Administrator shall prepare necessary forms**
2 **for the implementation of this section.**

3 **“SECTION 3.** ORS 419B.449, as amended by section 46, chapter 14,
4 Oregon Laws 2020 (first special session), is amended to read:

5 “419B.449. (1) Upon receiving any report required by ORS 419B.440, the
6 court may hold a hearing to review the child or ward’s condition and cir-
7 cumstances and to determine if the court should continue jurisdiction and
8 wardship or order modifications in the care, placement and supervision of the
9 child or ward. The court shall hold a hearing:

10 “(a) In all cases under ORS 419B.440 (1)(b)(B) when the parents’ rights
11 have been terminated;

12 “(b) If requested by the child or ward, the attorney for the child or ward,
13 if any, the parents or the public or private agency having guardianship or
14 legal custody of the child or ward within 30 days of receipt of the notice
15 provided in ORS 419B.452;

16 “(c) Not later than six months after receipt of a report made under ORS
17 419B.440 (1)(a) on a ward who is in the legal custody of the Department of
18 Human Services pursuant to ORS 419B.337 but who is placed in the physical
19 custody of a parent or a person who was appointed the ward’s legal guardian
20 prior to placement of the ward in the legal custody of the department;

21 “(d) Within 30 days after receipt of a report made under ORS 419B.440
22 (1)(b)(C); or

23 “(e) Within 10 days after receipt of a report made under ORS 419B.440
24 (1)(c).

25 “(2) The court shall conduct a hearing provided in subsection (1) of this
26 section in the manner provided in ORS 419B.310, except that the court may
27 receive testimony and reports as provided in ORS 419B.325. At the conclusion
28 of the hearing, the court shall enter findings of fact.

29 “(3) If the child or ward is in substitute care and the decision of the court
30 is to continue the child or ward in substitute care, the findings of the court

1 shall specifically state:

2 “(a)(A) Why continued care is necessary as opposed to returning the child
3 or ward home or taking prompt action to secure another permanent place-
4 ment; and

5 “(B) The expected timetable for return or other permanent placement.

6 “(b) Whether the agency having guardianship or legal custody of the child
7 or ward has made diligent efforts to place the child or ward pursuant to ORS
8 419B.192.

9 “(c) The number of placements made, schools attended, face-to-face con-
10 tacts with the assigned case worker and visits had with parents or siblings
11 since the child or ward has been in the guardianship or legal custody of the
12 agency and whether the frequency of each of these is in the best interests
13 of the child or ward.

14 “(d) For a child or ward 14 years of age or older, whether the child or
15 ward is progressing adequately toward graduation from high school and, if
16 not, the efforts that have been made by the agency having custody or
17 guardianship to assist the child or ward to graduate.

18 “(e) For a ward 16 years of age or older with a permanency plan of an-
19 other planned permanent living arrangement, the steps the department is
20 taking to ensure that:

21 “(A) The ward’s substitute care provider is following the reasonable and
22 prudent parent standard; and

23 “(B) The ward has regular, ongoing opportunities to engage in age-
24 appropriate or developmentally appropriate activities, including consultation
25 with the ward in an age-appropriate manner about the opportunities the
26 ward has to participate in the activities.

27 “(f) **If the ward is an Indian child, whether, after consulting with**
28 **the child’s tribe, tribal customary adoption, as described in section 2**
29 **of this 2021 Act, is an appropriate permanent plan for the child if re-**
30 **unification is unsuccessful.**

1 “(4) If the ward is in the legal custody of the department but has been
2 placed in the physical custody of the parent or a person who was appointed
3 the ward’s legal guardian prior to placement of the ward in the legal custody
4 of the department, and the decision is to continue the ward in the legal
5 custody of the department and the physical custody of the parent or guard-
6 ian, the findings of the court shall specifically state:

7 “(a) Why it is necessary and in the best interests of the ward to continue
8 the ward in the legal custody of the department; and

9 “(b) The expected timetable for dismissal of the department’s legal cus-
10 tody of the ward and termination of the wardship.

11 “(5) If [*there is reason to know, as described in section 15, chapter 14,*
12 *Oregon Laws 2020 (first special session), that*] the child or ward is an Indian
13 child and the child or ward is in the legal custody of the department but has
14 been placed in the physical custody of the parent or a person who was ap-
15 pointed the child’s or ward’s legal guardian prior to placement of the child
16 or ward in the legal custody of the department, the court may order that the
17 child or ward be placed in the physical custody of a substitute care provider
18 only after making all of the inquiry, notice and findings required under ORS
19 419B.305 and 419B.310.

20 “(6) In making the findings under subsection (2) of this section, the court
21 shall consider the efforts made to develop the concurrent case plan, includ-
22 ing, but not limited to, identification of appropriate permanent placement
23 options for the child or ward both inside and outside this state and, if
24 adoption is the concurrent case plan, identification and selection of a suit-
25 able adoptive placement for the child or ward.

26 “(7)(a) If [*there is reason to know, as described in section 15, chapter 14,*
27 *Oregon Laws 2020 (first special session), that*] the child or ward is an Indian
28 child, the findings of the court shall specifically state whether the depart-
29 ment has provided active efforts to reunify the Indian child with the Indian
30 child’s parent or Indian custodian.

1 “(b) If the court finds that active efforts have not been provided, the court
2 shall order that the Indian child be immediately returned to the Indian
3 child’s parent.

4 “(c) Notwithstanding paragraph (b) of this subsection, if the court finds
5 that returning the Indian child to the Indian child’s parent will result in
6 substantial and immediate danger or threat of danger to the Indian child, the
7 court shall:

8 “(A) Determine the period of time during which active efforts were not
9 provided;

10 “(B) Order the department to provide those services necessary for the
11 provision of active efforts;

12 “(C) Order the department to continue placement of the Indian child
13 pursuant to the placement preferences under section 23, chapter 14, Oregon
14 Laws 2020 (first special session); and

15 “(D) Order the department to continue to foster relationships with any
16 individuals identified by the department as long-term placement resources
17 meeting the placement preferences under section 23, chapter 14, Oregon Laws
18 2020 (first special session).

19 “(8) In addition to findings of fact required by subsection (2) of this sec-
20 tion, the court may order the department to consider additional information
21 in developing the case plan or concurrent case plan.

22 “(9) Any final decision of the court made pursuant to the hearing provided
23 in subsection (1) of this section is appealable under ORS 419A.200.

24 “**SECTION 4.** ORS 419B.476, as amended by section 38, chapter 14,
25 Oregon Laws 2020 (first special session), is amended to read:

26 “419B.476. (1) A permanency hearing shall be conducted in the manner
27 provided in ORS 418.312, 419B.310, 419B.812 to 419B.839 and 419B.908, except
28 that the court may receive testimony and reports as provided in ORS
29 419B.325.

30 “(2) At a permanency hearing the court shall:

1 “(a) If the case plan at the time of the hearing is to reunify the family,
2 determine whether the Department of Human Services has made reasonable
3 efforts or, if [*there is reason to know as described in section 15, chapter 14,*
4 *Oregon Laws 2020 (first special session), that*] the ward is an Indian child,
5 active efforts as described in section 18, chapter 14, Oregon Laws 2020 (first
6 special session), to make it possible for the ward to safely return home and
7 whether the parent has made sufficient progress to make it possible for the
8 ward to safely return home. In making its determination, the court shall
9 consider the ward’s health and safety the paramount concerns.

10 “(b) If the case plan at the time of the hearing is something other than
11 to reunify the family, determine whether the department has made reasonable
12 efforts to place the ward in a timely manner in accordance with the plan,
13 including, if appropriate, reasonable efforts to place the ward through an
14 interstate placement, and to complete the steps necessary to finalize the
15 permanent placement.

16 “(c) If the case plan at the time of the hearing is something other than
17 to reunify the family, determine whether the department has considered
18 permanent placement options for the ward, including, if appropriate, whether
19 the department has considered both permanent in-state placement options
20 and permanent interstate placement options for the ward.

21 “(d) Make the findings of fact under ORS 419B.449 (3).

22 **“(e) If the child is an Indian child and the case plan at the time of**
23 **the hearing is something other than to reunify the family, make a**
24 **finding whether, after consulting with the child’s tribe, tribal cus-**
25 **tomary adoption, as described in section 2 of this 2021 Act, is an ap-**
26 **propriate permanent placement for the child if reunification is**
27 **unsuccessful.**

28 “(3) When the ward is 14 years of age or older, in addition to making the
29 determination required by subsection (2) of this section, at a permanency
30 hearing the court shall review the comprehensive plan for the ward’s tran-

1 sition to successful adulthood and determine and make findings as to:

2 “(a) Whether the plan is adequate to ensure the ward’s transition to
3 successful adulthood;

4 “(b) Whether the department has offered appropriate services pursuant to
5 the plan; and

6 “(c) Whether the department has involved the ward in the development
7 of the plan.

8 “(4) At a permanency hearing the court may:

9 “(a) If the case plan changed during the period since the last review by
10 a local citizen review board or court hearing and a plan to reunify the family
11 was in effect for any part of that period, determine whether the department
12 has made reasonable efforts or, if [*there is reason to know as described in*
13 *section 15, chapter 14, Oregon Laws 2020 (first special session), that*] the ward
14 is an Indian child, active efforts as described in section 18, chapter 14,
15 Oregon Laws 2020 (first special session), to make it possible for the ward to
16 safely return home. In making its determination, the court shall consider the
17 ward’s health and safety the paramount concerns;

18 “(b) If the case plan changed during the period since the last review by
19 a local citizen review board or court hearing and a plan other than to reu-
20 nify the family was in effect for any part of that period, determine whether
21 the department has made reasonable efforts to place the ward in a timely
22 manner in accordance with the plan, including, if appropriate, placement of
23 the ward through an interstate placement, and to complete the steps neces-
24 sary to finalize the permanent placement;

25 “(c) If the court determines that further efforts will make it possible for
26 the ward to safely return home within a reasonable time, order that the
27 parents participate in specific services for a specific period of time and make
28 specific progress within that period of time;

29 “(d) Determine the adequacy and compliance with the case plan and the
30 case progress report;

1 “(e) Review the efforts made by the department to develop the concurrent
2 permanent plan, including but not limited to identification of appropriate
3 permanent in-state placement options and appropriate permanent interstate
4 placement options and, if adoption is the concurrent case plan, identification
5 and selection of a suitable adoptive placement for the ward;

6 “(f) Order the department to develop or expand the case plan or concur-
7 rent permanent plan and provide a case progress report to the court and
8 other parties within 10 days after the permanency hearing;

9 “(g) Order the department or agency to modify the care, placement and
10 supervision of the ward;

11 “(h) Order the local citizen review board to review the status of the ward
12 prior to the next court hearing; or

13 “(i) Set another court hearing at a later date.

14 “(5) The court shall enter an order within 20 days after the permanency
15 hearing. In addition to any determinations or orders the court may make
16 under subsection (4) of this section, the order shall include the following:

17 “(a) The court’s determinations required under subsections (2) and (3) of
18 this section, including a brief description of the efforts the department has
19 made with regard to the case plan in effect at the time of the permanency
20 hearing.

21 “(b) The court’s determination of the permanency plan for the ward that
22 includes whether and, if applicable, when:

23 “(A) The ward will be returned to the parent;

24 “(B) The ward will be placed for adoption, and a petition for termination
25 of parental rights will be filed;

26 “(C) The ward will be referred for establishment of legal guardianship;

27 “(D) The ward will be placed with a fit and willing relative; or

28 “(E) If the ward is 16 years of age or older, the ward will be placed in
29 another planned permanent living arrangement.

30 “(c) If the court determines that the permanency plan for the ward should

1 be to return home because further efforts will make it possible for the ward
2 to safely return home within a reasonable time, the court's determination
3 of the services in which the parents are required to participate, the progress
4 the parents are required to make and the period of time within which the
5 specified progress must be made.

6 “(d) If the court determines that the permanency plan for the ward should
7 be adoption, the court's determination of whether one of the circumstances
8 in ORS 419B.498 (2) is applicable.

9 “(e) If the court determines that the permanency plan for the ward should
10 be establishment of a legal guardianship, the court's determination of why
11 neither placement with parents nor adoption is appropriate.

12 “(f) If the court determines that the permanency plan for a ward should
13 be placement with a fit and willing relative, the court's determination of why
14 placement with the ward's parents, or for adoption, or placement with a legal
15 guardian, is not appropriate.

16 “(g) If the court determines that the permanency plan for a ward 16 years
17 of age or older should be another planned permanent living arrangement, the
18 court's determinations:

19 “(A) Why another planned permanent living arrangement is in the ward's
20 best interests and a compelling reason, that must be documented by the de-
21 partment, why it would not be in the best interests of the ward to be re-
22 turned home, placed for adoption, placed with a legal guardian or placed
23 with a fit and willing relative; and

24 “(B) That the department has taken steps to ensure that:

25 “(i) The ward's substitute care provider is following the reasonable and
26 prudent parent standard; and

27 “(ii) The ward has regular, ongoing opportunities to engage in age-
28 appropriate or developmentally appropriate activities, including consultation
29 with the ward in an age-appropriate manner about the opportunities the
30 ward has to participate in the activities.

1 “(h) If the current placement is not expected to be permanent, the court’s
2 projected timetable for return home or for placement in another planned
3 permanent living arrangement. If the timetable set forth by the court is not
4 met, the department shall promptly notify the court and parties.

5 “(i) If [*there is reason to know that an Indian child is involved*] **the ward**
6 **is an Indian child**, the tribal affiliation of the ward.

7 “(j) If [*there is reason to know that*] the ward is an Indian child and **if** the
8 court determines that the permanency plan for the ward should be something
9 other than to reunify the family, the court’s determination, by clear and
10 convincing evidence, that:

11 “(A) Active efforts as described in section 18, chapter 14, Oregon Laws
12 2020 (first special session), were provided to make it possible for the Indian
13 child to safely return home;

14 “(B) Despite the efforts provided, continued removal of the Indian child
15 is necessary to prevent serious emotional or physical damage to the Indian
16 child;

17 “(C) The parent has not made sufficient progress to make it possible for
18 the Indian child to safely return home; and

19 “(D) The new permanency plan complies with the placement preferences
20 described in section 23, chapter 14, Oregon Laws 2020 (first special session).

21 “(k) If the ward has been placed in an interstate placement, the court’s
22 determination of whether the interstate placement continues to be appropri-
23 ate and in the best interests of the ward.

24 “(6) In making the determinations under subsection (5)(g) of this section,
25 the court shall ask the ward about the ward’s desired permanency outcome.

26 “(7) If [*there is reason to know that an Indian child is involved*] **the child**
27 **is an Indian child**:

28 “(a) The court shall follow the placement preferences described in section
29 23, chapter 14, Oregon Laws 2020 (first special session).

30 “(b) If the court finds that the department did not provide active efforts

1 to make it possible for the Indian child to safely return home, the court may
2 not, at that permanency hearing, change the permanency plan to something
3 other than to reunify the family.

4 “(c) If the court finds that the department did not provide active efforts
5 to make it possible for the Indian child to return home, except as otherwise
6 required under ORS 419B.470, the court may not set a date for a subsequent
7 permanency hearing until the department has provided active efforts for the
8 number of days that active efforts were not previously provided.

9 **“(d)(A) If the court finds, after consulting with the Indian child’s**
10 **tribe, that tribal customary adoption, as described in section 2 of this**
11 **2021 Act, is an appropriate permanent placement for the child, the**
12 **court shall continue the permanency hearing for 120 days to permit**
13 **the tribe to complete the process of tribal customary adoption and file**
14 **with the court a tribal customary adoption order or judgment evi-**
15 **dencing that the tribal customary adoption has been completed. The**
16 **tribe must file the tribal customary adoption order or judgment no less**
17 **than 20 days prior to the date set by the court for the continued**
18 **permanency hearing.**

19 **“(B) Upon the tribe’s request, the court may grant an extension of**
20 **time to file the tribal customary adoption order or judgment, not to**
21 **exceed 60 days.**

22 **“(C) If the tribe does not file the tribal customary adoption order**
23 **or judgment within the designated time period, the court shall order**
24 **a new permanency hearing to determine the best permanency plan for**
25 **the child.**

26 **“(D) The Indian child, the child’s parents or the child’s Indian**
27 **custodian and the proposed adoptive parents may present evidence to**
28 **the court and regarding the tribal customary adoption and the child’s**
29 **best interest, as described in section 5, chapter 14, Oregon Laws 2020**
30 **(first special session).**

1 “(8) Any final decision of the court made pursuant to the permanency
2 hearing is appealable under ORS 419A.200. On appeal of a final decision of
3 the court under this subsection, the court’s finding, if any, under ORS
4 419B.340 (5) that the department is not required to make reasonable efforts
5 to make it possible for the ward to safely return home is an interlocutory
6 order to which a party may assign error.

7 **“SECTION 5.** ORS 419B.498, as amended by section 47, chapter 14,
8 Oregon Laws 2020 (first special session), is amended to read:

9 “419B.498. (1) Except as provided in subsection (2) of this section, the
10 Department of Human Services shall simultaneously file a petition to termi-
11 nate the parental rights of a child or ward’s parents and identify, recruit,
12 process and approve a qualified family for adoption if the child or ward is
13 in the custody of the department and:

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

16 “(b) A parent has been convicted of murder of another child of the parent,
17 voluntary manslaughter of another child of the parent, aiding, abetting, at-
18 tempting, conspiring or soliciting to commit murder or voluntary
19 manslaughter of the child or ward or of another child of the parent or felony
20 assault that has resulted in serious physical injury to the child or ward or
21 to another child of the parent; or

22 “(c) A court of competent jurisdiction has determined that the child or
23 ward is an abandoned child.

24 “(2) The department shall file a petition to terminate the parental rights
25 of a parent in the circumstances described in subsection (1) of this section
26 unless:

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

29 “(b) There is a compelling reason, which is documented in the case plan,
30 for determining that filing such a petition would not be in the best interests

1 of the child or ward. Such compelling reasons include, but are not limited
2 to:

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

6 “(B) Another permanent plan is better suited to meet the health and
7 safety needs of the child or ward, including the need to preserve the child’s
8 or ward’s sibling attachments and relationships; *[or]*

9 “(C) **If the child is an Indian child, the court finds, after consulting**
10 **with the Indian child’s tribe, that tribal customary adoption, as de-**
11 **scribed in section 2 of this 2021 Act, is an appropriate permanent plan**
12 **for the child; or**

13 “[*(C)*] (D) The court or local citizen review board in a prior hearing or
14 review determined that while the case plan was to reunify the family the
15 department did not make reasonable efforts or, if the child or ward is an
16 Indian child, active efforts, as described in section 18, chapter 14, Oregon
17 Laws 2020 (first special session), to make it possible for the child or ward
18 to safely return home; or

19 “(c) The department has not provided to the family of the child or ward,
20 consistent with the time period in the case plan, such services as the de-
21 partment deems necessary for the child or ward to safely return home, if
22 reasonable efforts to make it possible for the child or ward to safely return
23 home are required to be made with respect to the child or ward.

24 “(3) No petition to terminate the parental rights of a child or ward’s
25 parents pursuant to subsection (1) of this section or pursuant to ORS
26 419B.500, 419B.502, 419B.504, 419B.506 or 419B.508 may be filed until the
27 court has determined that the permanency plan for the child or ward should
28 be adoption after a permanency hearing pursuant to ORS 419B.476.

29

30 **“REPORT TO INTERIM COMMITTEES ON JUDICIARY**

1 **“SECTION 6. No later than March 15, 2024, the Department of Hu-**
2 **man Services shall submit a report to the interim committees of the**
3 **Legislative Assembly related to the judiciary describing the**
4 **department’s implementation of tribal customary adoption as an al-**
5 **ternative permanency option for wards who are Indian children and**
6 **the department’s recommendations for proposed legislation to improve**
7 **the tribal customary adoption process.**

8
9 **“CAPTIONS**

10
11 **“SECTION 7. The unit captions used in this 2021 Act are provided**
12 **only for the convenience of the reader and do not become part of the**
13 **statutory law of this state or express any legislative intent in the**
14 **enactment of this 2021 Act.**

15
16 **“OPERATIVE DATE**

17
18 **“SECTION 8. (1) Section 2 of this 2021 Act and the amendments to**
19 **ORS 419B.449, 419B.476 and 419B.498 by sections 3 to 5 of this 2021 Act,**
20 **become operative on January 1, 2022.**

21 **“(2) The Department of Human Services, the Chief Justice of the**
22 **Supreme Court and the State Court Administrator may take any**
23 **action before the operative date specified in subsection (1) of this sec-**
24 **tion that is necessary for the department, the Chief Justice or the**
25 **administrator to exercise, on and after the operative date specified in**
26 **subsection (1) of this section, all of the duties, functions and powers**
27 **conferred on the department, the Chief Justice or the administrator**
28 **by section 2 of this 2021 Act and the amendments to ORS 419B.449,**
29 **419B.476 and 419B.498 by sections 3 to 5 of this 2021 Act.**

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“EFFECTIVE DATE

“SECTION 9. This 2021 Act takes effect on the 91st day after the date on which the 2021 regular session of the Eighty-first Legislative Assembly adjourns sine die.”.
