

# House Bill 2429

Sponsored by Representative WRIGHT (Pre-session filed.)

## 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**.

Modifies provisions regarding appointment of counsel for parents or children in juvenile dependency proceedings and contested adoption proceedings. Directs court to appoint counsel for parents in juvenile dependency proceedings, including proceedings for termination of parental rights, only if facts found in dependency proceeding may effect criminal proceeding. Directs court to appoint counsel for child in juvenile dependency proceedings only if child was allegedly abused. Repeals right to court-appointed counsel in contested adoption proceeding.

## A BILL FOR AN ACT

Relating to court-appointed counsel; creating new provisions; amending ORS 109.322, 109.324, 109.326, 109.330, 151.216, 419B.195, 419B.205, 419B.208, 419B.371, 419B.532, 419B.639, 419B.647 and 419B.914; and repealing ORS 419B.518.

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

## COURT-APPOINTED COUNSEL IN DEPENDENCY PROCEEDINGS

### **SECTION 1.** ORS 419B.195 is amended to read:

419B.195. (1) If the child, ward, parent or guardian requests counsel for the child or ward **in a proceeding under this chapter in which it has been alleged that the child or ward has been subjected to abuse, as defined in ORS 419B.005**, but is without sufficient financial means to employ suitable counsel possessing skills and experience commensurate with the nature of the petition and the complexity of the case, the court may appoint suitable counsel to represent the child or ward at state expense if the child or ward is determined to be financially eligible under the policies, procedures, standards and guidelines of the Public Defense Services Commission. [*Whenever requested to do so, the court shall appoint counsel to represent the child or ward in a case filed pursuant to ORS 419B.100.*] The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the Public Defense Services Commission.

(2) Upon presentation of the order of appointment under this section by the attorney for the child or ward, any agency, hospital, school organization, division or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the attorney to inspect and copy any records of the child or ward involved in the case, without the consent of the child or ward or parents. This subsection does not apply to records of a police agency relating to an ongoing investigation prior to charging.

### **SECTION 2.** ORS 419B.205 is amended to read:

419B.205. (1) Counsel shall be appointed for the parent or legal guardian **of a child or ward** whenever the nature of the proceedings **under this chapter** and due process so require, and when the parent or legal guardian has been determined by the court to be eligible to receive appointed

**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 counsel under the standard in ORS 135.050 or the policies, procedures, standards and guidelines  
 2 adopted under ORS 151.216.

3 (2) In deciding whether to appoint counsel under this section, the court shall consider the fol-  
 4 lowing factors:

5 [(a) *The duration and degree of invasiveness of the interference with the parent-child relationship*  
 6 *that possibly could result from the proceeding;*]

7 [(b)] (a) The complexity of the issues and evidence;

8 [(c)] (b) The nature of allegations and evidence contested by the parent or legal guardian; and

9 [(d)] (c) The effect the facts found or the disposition in the proceeding may have on later  
 10 **criminal** proceedings or events., *including but not limited to termination of parental rights or crim-*  
 11 *inal proceedings.]*

12 [(2)] (3) The court may not substitute one appointed counsel for another except pursuant to the  
 13 policies, procedures, standards and guidelines adopted under ORS 151.216.

14 **SECTION 3.** ORS 419B.208 is amended to read:

15 419B.208. Appointment of counsel for *[the]* a child, ward *[or]*, parent **or legal guardian under**  
 16 **ORS 419B.195 or 419B.205** is subject to ORS 135.055, 151.216 and 151.219.

17 **SECTION 4.** ORS 419B.371 is amended to read:

18 419B.371. (1) As used in this section:

19 (a) “Community guardian” means a child-caring agency licensed, certified or otherwise author-  
 20 ized under ORS 418.205 to 418.327 that is filing a motion for appointment as guardian of a ward  
 21 under ORS 419B.366.

22 (b) “Community guardianship” means a guardianship granted under ORS 419B.366 to a commu-  
 23 nity guardian.

24 (2) The court may appoint a community guardian and establish a community guardianship of a  
 25 ward under ORS 419B.366 when, in addition to the requirements of ORS 419B.366:

26 (a) The ward is 16 years of age or older;

27 (b) The ward has spent three or more years in substitute care;

28 (c) The proposed community guardian has provided care or services to the ward under ORS  
 29 418.205 to 418.327 in the 12 months immediately preceding the filing of the motion for community  
 30 guardianship;

31 (d) Except for another planned permanent living arrangement, there is no other appropriate  
 32 permanency plan for the ward under ORS 419B.476 (5);

33 (e) The proposed community guardianship would include planning and guidance for the ward’s  
 34 transition to successful adulthood, including needs and goals related to crisis intervention, housing,  
 35 physical and mental health, education, employment, community connections and supportive re-  
 36 lationships; **and**

37 (f) The ward gives informed consent to the establishment of the community guardianship.];  
 38 *and]*

39 [(g) *The ward has access to court-appointed counsel under ORS 419B.195.*]

40 (3) Informed consent of the ward under subsection (2)(f) of this section shall include:

41 (a) The ward’s written consent to information provided in writing to the ward by the court, the  
 42 Department of Human Services or the proposed community guardian about the consequences of es-  
 43 tablishment of a community guardianship, including any loss of benefits currently being received or  
 44 that may prospectively be provided to the ward if another permanency plan were ordered; and

45 (b) The ward’s written acknowledgment that the ward cannot be placed in substitute care in the

1 legal custody of the Department of Human Services after reaching 18 years of age.

2 **SECTION 5.** ORS 419B.532 is amended to read:

3 419B.532. (1) As used in this section, “former parent” means a person who was previously the  
4 legal parent of a ward and whose parental rights to the ward have been terminated.

5 (2)(a) In a proceeding under ORS 419B.500, the Department of Human Services or a ward may  
6 file a motion to reinstate the parental rights of a former parent if:

7 (A)(i) The ward has not been adopted; or

8 (ii) The ward was previously adopted but no longer has a legal parent;

9 (B) No legal action to achieve the adoption of the ward has been initiated under ORS 109.276  
10 or 419B.529;

11 (C) At least 18 months have passed since entry of the judgment terminating the former parent’s  
12 parental rights to the ward or, in the event of an appeal, at least six months have passed since is-  
13 suance of an appellate judgment affirming the termination judgment, whichever is later; and

14 (D) Except as provided in paragraph (b) of this subsection, the ward is at least 12 years of age  
15 at the time the motion to reinstate parental rights is filed.

16 (b) If the ward is under 12 years of age at the time the motion to reinstate parental rights is  
17 filed, the court may allow the motion upon a showing of good cause.

18 (3) A motion to reinstate parental rights under this section must be in writing and state with  
19 particularity the factual and legal grounds for the motion.

20 (4) The moving party shall provide a copy of the motion to reinstate parental rights to the for-  
21 mer parent and shall notify the court, the parties and, if there is reason to know that the ward is  
22 an Indian child, the tribe that a copy of the motion has been provided.

23 (5) If a motion to reinstate parental rights does not state a prima facie case as to the facts that  
24 must be proved under subsection (6) of this section, the court may deny the motion without a hear-  
25 ing.

26 (6)(a) If a motion to reinstate parental rights states a prima facie case as to the facts that must  
27 be proved under this subsection, the court shall hold a hearing on the merits of the motion. The  
28 court shall grant the motion if the moving party proves by clear and convincing evidence that:

29 (A) The former parent’s conduct and conditions that led to the termination of parental rights  
30 have been ameliorated and the former parent is presently fit;

31 (B) The former parent wishes to have parental rights reinstated;

32 (C) The ward consents to the reinstatement of parental rights; and

33 (D) Reinstatement of parental rights is in the ward’s best interests.

34 (b) In determining whether reinstatement of parental rights is in the ward’s best interests under  
35 paragraph (a) of this subsection, the court shall consider:

36 (A) The ward’s health, safety, permanency, age, maturity and ability to express the ward’s pref-  
37 erences;

38 (B) The reasons that the former parent’s parental rights were terminated;

39 (C) The former parent’s stated reasons for wishing to have parental rights reinstated; and

40 (D) The likely impact on the ward of the former parent’s past abuse or neglect.

41 (c) The moving party shall provide notice to the former parent of a hearing on the merits under  
42 paragraph (a) of this subsection.

43 (d) The department shall establish by rule procedures for investigating the present fitness of the  
44 former parent and for providing appropriate reunification services.

45 (7) If the court grants the motion to reinstate parental rights under subsection (6) of this sec-

1 tion:

2 (a) The court shall enter an order reinstating parental rights that shall restore all parental  
3 rights and duties of the former parent as to the ward;

4 (b) The ward shall continue as a ward of the court for at least six months after entry of the  
5 order reinstating parental rights; and

6 (c) The court shall conduct a permanency hearing as provided in ORS 419B.470 within 60 days  
7 after entering the order under paragraph (a) of this subsection.

8 (8) An order reinstating parental rights under this section does not vacate or otherwise affect  
9 the validity of the original judgment terminating the parental rights of the former parent except to  
10 the extent that the order reinstates parental rights.

11 *[(9) In any proceeding under this section, the ward is entitled to have counsel appointed at state  
12 expense if the ward is determined to be financially eligible under the policies, procedures, standards  
13 and guidelines of the Public Defense Services Commission.]*

14 **SECTION 6.** ORS 419B.639 is amended to read:

15 419B.639. (1)(a) In an emergency proceeding, if there is reason to know that a child is an Indian  
16 child and the nature of the emergency allows, the Department of Human Services must notify by  
17 telephone, electronic mail, facsimile or other means of immediate communication any tribe of which  
18 the child is or may be a member.

19 (b) Notification under this subsection must include the basis for the child's removal, the time,  
20 date and place of the initial hearing and a statement that the tribe has the right to participate in  
21 the proceeding as a party or in an advisory capacity under ORS 419B.875.

22 (2) Except as provided in subsection (1) of this section, if there is reason to know that a child  
23 alleged to be within the court's jurisdiction under ORS chapter 109, 418, 419A or 419B is an Indian  
24 child and notice is required, the party providing notice must:

25 (a) Promptly send notice of the proceeding as described in subsection (3) of this section; and

26 (b) File a copy of each notice sent under this section with the court, together with any return  
27 receipts or other proof of service.

28 (3) Notice under subsection (2) of this section must:

29 (a) Be sent to:

30 (A) Each tribe of which the child may be a member or of which the Indian child may be eligible  
31 for membership;

32 (B) The child's parents;

33 (C) The child's Indian custodian, if applicable; and

34 (D) The appropriate United States Bureau of Indian Affairs Regional Director listed in 25 C.F.R.  
35 23.11(b), if the identity or location of the child's parents, Indian custodian or tribe cannot be ascer-  
36 tained.

37 (b) Be sent by registered or certified mail, return receipt requested.

38 (c) Be in clear and understandable language and include the following:

39 (A) The child's name, date of birth and place of birth;

40 (B) To the extent known, all names, including maiden, married and former names or aliases, of  
41 the child's parents, the parents' birthplaces and tribal enrollment numbers;

42 (C) To the extent known, the names, dates of birth, places of birth and tribal enrollment infor-  
43 mation of other direct lineal ancestors of the child;

44 (D) The name of each Indian tribe of which the child is a member or in which the Indian child  
45 may be eligible for membership;

1 (E) If notice is required to be sent to the United States Bureau of Indian Affairs under para-  
 2 graph (a) of this subsection, to the extent known, information regarding the child's direct lineal  
 3 ancestors, an ancestral chart for each biological parent, and the child's tribal affiliations and blood  
 4 quantum;

5 (F) A copy of the petition or motion initiating the proceeding and, if a hearing has been sched-  
 6 uled, information on the date, time and location of the hearing;

7 (G) The name of the petitioner and the name and address of the petitioner's attorney;

8 (H) In a proceeding under ORS chapter 419B:

9 (i) A statement that the child's parent or Indian custodian has the right to participate in the  
 10 proceeding as a party to the proceeding under ORS 419B.875;

11 (ii) A statement that the child's tribe has the right to participate in the proceeding as a party  
 12 or in an advisory capacity under ORS 419B.875; **and**

13 *[(iii) A statement that if the court determines that the child's parent or Indian custodian is unable*  
 14 *to afford counsel, the parent or Indian custodian has the right to court-appointed counsel; and]*

15 *[(iv)]* (iii) A statement that the child's parent, Indian custodian or tribe has the right, upon re-  
 16 quest, to up to 20 additional days to prepare for the proceeding;

17 (I) In a proceeding under ORS 109.266 to 109.410, a statement that the child's tribe may inter-  
 18 vene in the proceeding;

19 (J) A statement that the child's parent, Indian custodian or tribe has the right to petition the  
 20 court to transfer the child custody proceeding to the tribal court;

21 (K) A statement describing the potential legal consequences of the proceeding on the future  
 22 parental and custodial rights of the parent or Indian custodian;

23 (L) The mailing addresses and telephone numbers of the court and contact information for all  
 24 parties to the proceeding and individuals notified under this section; and

25 (M) A statement that the information contained in the notice is confidential and that the notice  
 26 should not be shared with any person not needing the information to exercise rights under ORS  
 27 419B.600 to 419B.654.

28 (4) If there is a reason to know that the Indian child's parent or Indian custodian has limited  
 29 English proficiency and may not understand the contents of the notice under subsection (2) of this  
 30 section, the court must provide language access services as required by Title VI of the Civil Rights  
 31 Act of 1964 and other applicable federal and state laws. If the court is unable to secure translation  
 32 or interpretation support, the court shall contact or direct a party to contact the Indian child's tribe  
 33 or the local office of the United States Bureau of Indian Affairs for assistance identifying a qualified  
 34 translator or interpreter.

35 (5)(a) A hearing that requires notice under subsection (2) of this section may not be held until  
 36 at least 10 days after the latest of receipt of the notice by the Indian child's parent, Indian custodian  
 37 or tribe or, if applicable, the United States Bureau of Indian Affairs. Upon request, the court shall  
 38 grant the Indian child's parent, Indian custodian or tribe up to 20 additional days from the date upon  
 39 which notice was received by the parent, Indian custodian or tribe to prepare for participation in  
 40 the hearing.

41 (b) Nothing in this subsection prevents a court at an emergency proceeding before the expira-  
 42 tion of the waiting period described in paragraph (a) of this subsection from reviewing the removal  
 43 of an Indian child from the Indian child's parent or Indian custodian to determine whether the re-  
 44 moval or placement is no longer necessary to prevent imminent physical damage or harm to the  
 45 Indian child.

**SECTION 7.** ORS 419B.647 is amended to read:

419B.647. (1) If there is reason to know that a child in a proceeding under ORS chapter 419B is an Indian child:

(a) The court *[shall]* **may** appoint counsel to represent the Indian child **if there is an allegation in the proceeding that the Indian child has been subjected to abuse, as defined in ORS 419B.005.**

(b) If the Indian child’s parent or Indian custodian requests counsel to represent the parent or Indian custodian but is without sufficient financial means to employ suitable counsel possessing skills and experience commensurate with the nature of the petition and the complexity of the case, the court shall appoint suitable counsel to represent the Indian child’s parent or Indian custodian if the parent or Indian custodian is determined to be financially eligible under the policies, procedures, standards and guidelines of the Public Defense Services Commission.

(2) Upon presentation of the order of appointment under this section by the attorney for the Indian child, any agency, hospital, school organization, division or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the attorney for the Indian child to inspect and copy any records of the Indian child involved in the case, without the consent of the Indian child or the Indian child’s parent or Indian custodian. This subsection does not apply to records of a police agency relating to an ongoing investigation prior to bringing charges.

**SECTION 8. ORS 419B.518 is repealed.**

**COURT-APPOINTED COUNSEL IN ADOPTION PROCEEDINGS**

**SECTION 9.** ORS 109.326 is amended to read:

109.326. (1) If the mother of a child was married at the time of the conception or birth of the child, and it has been determined pursuant to ORS 109.065 or 419B.609 or judicially determined that the mother’s spouse at such time or times was not the parent of the child, the spouse’s authorization or waiver is not required in adoption, juvenile court or other proceedings concerning the custody of the child.

(2)(a) If parentage of the child has not been determined, a determination of nonparentage may be made by any court having adoption, divorce or juvenile court jurisdiction.

(b) Except as provided in subsection [(11)] (10) of this section, the testimony or affidavit of the mother or the spouse or another person with knowledge of the facts filed in the proceeding constitutes competent evidence before the court making the determination.

(c) The provisions of this section relating to Indian children do not apply if the determination of nonparentage is being made by a court having divorce jurisdiction or jurisdiction to decide custody between unmarried parents.

(3) Before the court may make the determination of nonparentage, the petitioner shall:

(a) Conduct the inquiry described in ORS 419B.636 (2) to determine whether the petitioner has reason to know that the child is an Indian child; and

(b) Serve on the spouse a summons and a true copy of a motion and order to show cause why a judgment of nonparentage should not be entered if:

(A) There has been a determination by any court of competent jurisdiction that the spouse is the parent of the child;

(B) The child resided with the spouse at any time since the child’s birth;

1 (C) The spouse repeatedly has contributed or tried to contribute to the support of the child; or

2 (D) The petitioner has reason to know that the child is an Indian child.

3 (4) When the petitioner is required to serve the spouse with a summons and a motion and order  
4 to show cause under subsection (3) of this section:

5 (a) Service must be made in the manner provided in ORCP 7 D and E, except as provided in  
6 subsection (7) of this section. Service of the summons and the motion and order to show cause must  
7 be proved as required in ORCP 7 F. The summons and the motion and order to show cause need not  
8 contain the names of the adoptive parents.

9 (b) If the petitioner has reason to know that the child is an Indian child, the petitioner shall  
10 serve copies of the motion, together with the notice of proceeding required under ORS 419B.639 (3),  
11 on:

12 (A) Each tribe of which the child may be a member or in which the Indian child may be eligible  
13 for membership;

14 (B) The child's parents;

15 (C) The child's Indian custodian, if applicable; and

16 (D) The appropriate United States Bureau of Indian Affairs Regional Director listed in 25 C.F.R.  
17 23.11(b), if the identity or location of the child's parents, Indian custodian or tribe cannot be ascer-  
18 tained.

19 (c) The petitioner shall file a declaration of compliance under penalty of perjury made in the  
20 manner described by ORCP 1 E, that includes:

21 (A) A statement and documentation, as described by the Department of Human Services by rule,  
22 of the efforts described in ORS 419B.636 (2) that the petitioner made to determine whether there is  
23 reason to know that the child is an Indian child; and

24 (B) If the petitioner has reason to know that the child is an Indian child:

25 (i) A statement describing the efforts the petitioner made, as required under ORS 109.302 (2)(c),  
26 to prevent the break up of the family or to reunite the family; and

27 (ii) A copy of each notice of proceeding the petitioner served as required under paragraph (b)  
28 of this subsection, together with any return receipts or other proof of service.

29 (5) The inquiry required under subsection (3)(a) of this section and notice required under sub-  
30 section (4)(a) of this section may be combined with the inquiry and notice required under ORS  
31 109.285 or 109.385 if the motion and order to show cause is filed concurrently with the petition for  
32 adoption or readoption under ORS 109.285 or 109.385.

33 (6) A summons under subsection (3) of this section must contain:

34 (a) A statement that if the spouse fails to file a written answer to the motion and order to show  
35 cause within the time provided, the court, without further notice and in the spouse's absence, may  
36 take any action that is authorized by law, including but not limited to entering a judgment of non-  
37 parentage on the date the answer is required or on a future date.

38 (b) A statement that:

39 (A) The spouse must file with the court a written answer to the motion and order to show cause  
40 within 30 days after the date on which the spouse is served with the summons or, if service of the  
41 summons is made by publication or posting under ORCP 7 D(6), within 30 days from the date of last  
42 publication or posting.

43 (B) In the answer, the spouse must inform the court and the petitioner of the spouse's telephone  
44 number or contact telephone number and the spouse's current residence, mailing or contact address  
45 in the same state as the spouse's home. The answer may be in substantially the following form:

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IN THE CIRCUIT COURT OF  
THE STATE OF OREGON  
FOR THE COUNTY OF \_\_\_\_\_

\_\_\_\_\_, )  
Petitioner, ) NO. \_\_\_\_\_  
                  )  
                  ) ANSWER  
and                )  
                  )  
\_\_\_\_\_, )  
Respondent.        )

I consent to the entry of a judgment of nonparentage.

I do not consent to the entry of a judgment of nonparentage. The court should not enter a judgment of nonparentage for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature  
DATE: \_\_\_\_\_

ADDRESS OR CONTACT ADDRESS:

\_\_\_\_\_  
\_\_\_\_\_

TELEPHONE OR CONTACT TELEPHONE:

\_\_\_\_\_  
\_\_\_\_\_

(c) A notice that, if the spouse answers the motion and order to show cause, the court:

(A) Will schedule a hearing to address the motion and order to show cause and, if appropriate, the adoption petition;

(B) Will order the spouse to appear personally; and

(C) May schedule other hearings related to the petition and may order the spouse to appear personally.

(d) A notice that the spouse has the right to be represented by an attorney. The notice must be in substantially the following form:

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You have a right to be represented by an attorney. If you wish to be represented by an attorney, please retain one as soon as possible to represent you in this proceeding. If you meet the state’s financial guidelines, you are entitled to have an attorney appointed for you at state expense. To request appointment of an attorney to represent you at state expense, you must contact the circuit court immediately. Phone \_\_\_\_\_ for further information.

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(e) A statement that the spouse has the responsibility to maintain contact with the spouse’s attorney and to keep the attorney advised of the spouse’s whereabouts.

(7) A spouse who is served with a summons and a motion and order to show cause under this section shall file with the court a written answer to the motion and order to show cause within 30 days after the date on which the spouse is served with the summons or, if service is made by publication or posting under ORCP 7 D(6), within 30 days from the date of last publication or posting. In the answer, the spouse shall inform the court and the petitioner of the spouse’s telephone number or contact telephone number and current address, as defined in ORS 25.011. The answer may be in substantially the form described in subsection (6) of this section.

*[(8) If the spouse requests the assistance of appointed counsel and the court determines that the spouse is financially eligible, the court shall appoint an attorney to represent the spouse at state expense. Appointment of counsel under this subsection is subject to ORS 135.055, 151.216 and 151.219. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines adopted under ORS 151.216.]*

[(9)] (8) If the spouse files an answer as required under subsection (7) of this section, the court, by oral order made on the record or by written order provided to the spouse in person or mailed to the spouse at the address provided by the spouse, shall:

- (a) Inform the spouse of the time, place and purpose of the next hearing or hearings related to the motion and order to show cause or the adoption petition;
- (b) Require the spouse to appear personally at the next hearing or hearings related to the motion and order to show cause or the adoption petition; and
- (c) Inform the spouse that, if the spouse fails to appear as ordered for any hearing related to the motion and order to show cause or the adoption petition, the court, without further notice and in the spouse’s absence, may take any action that is authorized by law, including but not limited to entering a judgment of nonparentage on the date specified in the order or on a future date, without the consent of the spouse.

[(10)(a)] (9)(a) Upon receiving the petitioner’s declaration of compliance under subsection (4)(c) of this section, the court shall review the petitioner’s statements and documentation and order that the adoption may proceed if the court finds that the petitioner satisfied the inquiry requirements under ORS 419B.636 (2) and, if applicable, the notice requirements under ORS 419B.639 (2).

(b) If the court finds that the petitioner failed to satisfy the inquiry or, if applicable, notice requirements under ORS 419B.636 (2) and 419B.639 (2), or if the documentation is insufficient for the court to make those findings, the court shall direct the petitioner to cure the inquiry or notice deficiency and file an amended declaration of compliance. The court shall order the petitioner to appear and show cause why the court should not deny the motion and order to show cause if the petitioner fails to file the amended declaration of compliance within a reasonable amount of time.

[(11)(a)] (10)(a) If a spouse fails to file a written answer as required in subsection (7) of this

1 section or fails to appear for a hearing related to the motion and order to show cause or the petition  
 2 as directed by court order under this section, the court, without further notice to the spouse and  
 3 in the spouse's absence, may take any action that is authorized by law, including but not limited to  
 4 entering a judgment of nonparentage.

5 (b) Notwithstanding paragraph (a) of this subsection, the court may not enter a judgment of  
 6 nonparentage unless the court finds that the petitioner complied with the inquiry requirements un-  
 7 der ORS 419B.636 (2).

8 ~~[(12)]~~ (11) If the child is an Indian child:

9 (a) The court may not enter a judgment of nonparentage with the consent of the spouse unless:

10 (A) The consent clearly sets out the conditions to the consent, if any;

11 (B) Prior to the execution of the consent, the court explains to the spouse, on the record in  
 12 detail and in the language of the spouse, *[the spouse's right to legal counsel,]* the terms and conse-  
 13 quences of the consent and that the spouse may withdraw the consent at any time prior to the entry  
 14 of a judgment of adoption or readoption under ORS 109.350;

15 (C) The spouse executes the consent in person before the court not less than 10 days following  
 16 the date of the Indian child's birth; and

17 (D) After the spouse executes the consent, the court certifies that the court provided the ex-  
 18 planation in the manner required under subparagraph (B) of this paragraph and that the spouse fully  
 19 understood the explanation.

20 (b) Notwithstanding subsection ~~[(9) or (11)]~~ (8) or (10) of this section, the court may not enter  
 21 a judgment of nonparentage without the consent of the spouse unless:

22 (A) The court has offered to order mediation through the Department of Human Services, or, if  
 23 there is mutual party agreement to private mediation and to the party assumption of costs, through  
 24 other mediation services, between the petitioner, spouse, Indian child's tribe and, if applicable, the  
 25 proposed adoptive placement;

26 (B) If requested by the tribe, an agreement is in place that requires the petitioner or, if appli-  
 27 cable, the proposed adoptive placement to maintain connection between the Indian child and the  
 28 Indian child's tribe; and

29 (C) The court finds that:

30 (i) The petitioner complied with the notice requirements as required under ORS 419B.639 (2);

31 (ii) Despite petitioner's active efforts, evidence, including the testimony of one or more qualified  
 32 expert witnesses under ORS 419B.642, establishes beyond a reasonable doubt that the continued  
 33 custody of the Indian child by the spouse is likely to result in serious emotional or physical damage  
 34 to the Indian child and that the petitioner's active efforts under ORS 419B.645 to reunite the Indian  
 35 family did not eliminate the necessity for termination of the spouse's parental rights based on seri-  
 36 ous emotional or physical damage to the Indian child; and

37 (iii) That the adoptive placement complies with the placement preferences under ORS 419B.654  
 38 (2) or, if not, a finding upon the petitioner's motion under ORS 419B.654 (3) that good cause exists  
 39 for placement contrary to the placement preferences in ORS 419B.654 (2).

40 (c) The evidence under paragraph (b)(C)(ii) of this subsection must show a causal relationship  
 41 between the particular conditions in the Indian child's home and the likelihood that the spouse's  
 42 continued custody will result in serious emotional or physical damage to the Indian child who is the  
 43 subject of the adoption proceeding. Evidence that shows the existence of community or family pov-  
 44 erty, isolation, single parenthood, custodian age, crowded or inadequate housing, substance abuse  
 45 or nonconforming social behavior does not, by itself, establish a causal relationship as required by

1 this paragraph.

2 [(13)] (12) There shall be sufficient proof to enable the court to grant the relief sought without  
3 notice to the spouse if:

4 (a) The affidavit of the mother of the child, of the spouse or of another person with knowledge  
5 of the facts filed in the proceeding states or the court finds from other competent evidence:

6 (A) That the mother of the child was not cohabiting with the mother's spouse at the time of  
7 conception of the child and that the spouse is not the parent of the child;

8 (B) That the spouse has not been judicially determined to be the parent of the child;

9 (C) That the child has not resided with the spouse; and

10 (D) That the spouse has not contributed or tried to contribute to the support of the child; and

11 (b) The court finds by clear and convincing evidence, after due diligence on the part of the  
12 petitioner, that the child is not an Indian child.

13 [(14)] (13) Notwithstanding ORS 109.070 (1)(a), service of a summons and a motion and order to  
14 show cause on the spouse under subsection (3) of this section is not required and the spouse's con-  
15 sent, authorization or waiver is not required in adoption proceedings concerning the child unless the  
16 child is an Indian child or the spouse has met the requirements of subsection (3)(b)(A), (B) or (C)  
17 of this section.

18 [(15)] (14) A spouse who was not cohabiting with the mother at the time of the child's con-  
19 ception has the primary responsibility to protect the spouse's rights.

20 [(16)] (15) Nothing in this section shall be used to set aside an act of a permanent nature, in-  
21 cluding but not limited to adoption, unless the parent establishes, within one year or, if the child is  
22 an Indian child, four years after the entry of the order or general judgment, as defined in ORS  
23 18.005, fraud on the part of the petitioner with respect to the matters specified in subsection  
24 [(13)(a)] (12)(a) of this section.

25 [(17)] (16) If the child is an Indian child, the child's tribe or Indian custodian may intervene at  
26 any time as a matter of right.

27 **SECTION 10.** ORS 109.330 is amended to read:

28 109.330. (1)(a) In the cases provided for in ORS 109.302, 109.322, 109.323 and 109.324, when a  
29 parent does not consent to the adoption of the child, the petitioner shall:

30 (A) Conduct the inquiry described in ORS 419B.636 (2) to determine whether the petitioner has  
31 reason to know that the child is an Indian child; and

32 (B) Serve the parent with a summons and a true copy of a motion and order to show cause why  
33 the proposed adoption should not be ordered without the parent's consent.

34 (b) Except as provided in subsection (3) of this section, service of the summons and the motion  
35 and order to show cause must be made in the manner provided in ORCP 7 D and E. Service must  
36 be proved as required in ORCP 7 F. The summons and the motion and order to show cause need not  
37 contain the names of the adoptive parents.

38 (c) If the petitioner has reason to know that the child is an Indian child, in addition to the  
39 service required under paragraph (b) of this subsection, the petitioner shall serve by registered or  
40 certified mail, return receipt requested, copies of the motion and order to show cause, together with  
41 the notice of proceeding in the form required under ORS 419B.639 (3)(c), on:

42 (A) Each tribe of which the child may be a member or in which the Indian child may be eligible  
43 for membership;

44 (B) The child's parents;

45 (C) The child's Indian custodian, if applicable; and

1 (D) The appropriate United States Bureau of Indian Affairs Regional Director listed in 25 C.F.R.  
2 23.11(b), if the identity or location of the child’s parents, Indian custodian or tribe cannot be ascer-  
3 tained.

4 (d) The petitioner shall file a declaration of compliance under penalty of perjury, made in the  
5 manner described by ORCP 1 E, that includes:

6 (A) A statement and documentation, as described by the Department of Human Services by rule,  
7 of the efforts described in ORS 419B.636 (2) that the petitioner made to determine whether there is  
8 reason to know that the child is an Indian child; and

9 (B) If the petitioner has reason to know that the child is an Indian child:

10 (i) A statement describing the efforts the petitioner made, as required under ORS 109.302 (2)(c),  
11 to prevent the break up of the family or to reunite the family; and

12 (ii) A copy of each notice of proceeding the petitioner served as required under paragraph (c)  
13 of this subsection, together with any return receipts or other proof of service.

14 (2) A summons under this section must contain:

15 (a) A statement that an adoption petition has been filed and that, if the parent fails to file a  
16 written answer to the motion and order to show cause within the time provided, the court, without  
17 further notice and in the parent’s absence, may take any action that is authorized by law, including  
18 but not limited to entering a judgment of adoption of the child if the court determines, on the date  
19 the answer is required or on a future date, that:

20 (A) Consent of the parent is not required;

21 (B) The adoption is in the best interests of the child; and

22 (C) If the child is an Indian child, the nonconsenting parent’s continued custody of the Indian  
23 child is likely to result in serious emotional or physical damage to the child.

24 (b) A statement that:

25 (A) The parent must file with the court a written answer to the motion and order to show cause  
26 within 30 days after the date on which the parent is served with the summons or, if service is made  
27 by publication or posting under ORCP 7 D(6), within 30 days from the date of last publication or  
28 posting.

29 (B) In the answer, the parent must inform the court and the petitioner of the parent’s telephone  
30 number or contact telephone number and the parent’s current residence, mailing or contact address  
31 in the same state as the parent’s home. The answer may be in substantially the following form:

32 \_\_\_\_\_

34 IN THE CIRCUIT COURT OF  
35 THE STATE OF OREGON  
36 FOR THE COUNTY OF \_\_\_\_\_

37 \_\_\_\_\_, )  
38 Petitioner, ) NO. \_\_\_\_\_

39 )  
40 ) ANSWER

41 and )  
42 )

43 \_\_\_\_\_, )  
44 Respondent. )

45 [ ] I consent to the proposed adoption.

[ ] I do not consent to the proposed adoption. The court should not order the proposed adoption without my consent for the following reasons:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Signature

DATE: \_\_\_\_\_

ADDRESS OR CONTACT ADDRESS:

\_\_\_\_\_  
\_\_\_\_\_

TELEPHONE OR CONTACT TELEPHONE:

\_\_\_\_\_

\_\_\_\_\_

(c) A notice that, if the parent answers the motion and order to show cause, the court:

(A) Will schedule a hearing to address the motion and order to show cause and, if appropriate, the adoption petition;

(B) Will order the parent to appear personally; and

(C) May schedule other hearings related to the petition and may order the parent to appear personally.

(d) A notice that the parent has the right to be represented by an attorney. The notice must be in substantially the following form:

\_\_\_\_\_

You have a right to be represented by an attorney. If you wish to be represented by an attorney, please retain one as soon as possible to represent you in this proceeding. If you meet the state's financial guidelines, you are entitled to have an attorney appointed for you at state expense. To request appointment of an attorney to represent you at state expense, you must contact the circuit court immediately. Phone \_\_\_\_\_ for further information.

\_\_\_\_\_

(e) A statement that the parent has the responsibility to maintain contact with the parent's attorney and to keep the attorney advised of the parent's whereabouts.

(3) A parent who is served with a summons and a motion and order to show cause under this section shall file with the court a written answer to the motion and order to show cause within 30 days after the date on which the parent is served with the summons or, if service is made by publication or posting under ORCP 7 D(6), within 30 days from the date of last publication or posting.

1 In the answer, the parent shall inform the court and the petitioner of the parent's telephone number  
 2 or contact telephone number and current address, as defined in ORS 25.011. The answer may be in  
 3 substantially the form described in subsection (2) of this section.

4 *[(4) If the parent requests the assistance of appointed counsel and the court determines that the*  
 5 *parent is financially eligible, the court shall appoint an attorney to represent the parent at state ex-*  
 6 *penditure. Appointment of counsel under this subsection is subject to ORS 135.055, 151.216 and 151.219.*  
 7 *The court may not substitute one appointed counsel for another except pursuant to the policies, proce-*  
 8 *dures, standards and guidelines adopted under ORS 151.216.]*

9 [(5)(a)] **(4)(a)** Upon receiving the petitioner's declaration of compliance under subsection (1)(d)  
 10 of this section, the court shall order that the motion and order to show cause may proceed if the  
 11 court finds that the petitioner satisfied the inquiry requirements under ORS 419B.636 (2) and, if ap-  
 12 plicable, the notice requirements under ORS 419B.639 (2).

13 (b) If the court finds that the petitioner failed to satisfy the inquiry or, if applicable, notice re-  
 14 quirements under ORS 419B.636 (2) and 419B.639 (2), or if the documentation is insufficient for the  
 15 court to make those findings, the court shall direct the petitioner to cure the inquiry or notice de-  
 16 ficiency and file an amended declaration of compliance. The court shall order the petitioner to ap-  
 17 pear and show cause why the court should not deny the motion and order to show cause if the  
 18 petitioner fails to file the amended declaration of compliance within a reasonable amount of time.

19 (c) If the court finds, subject to the procedures under ORS 419B.636 (4), that there is reason to  
 20 know the child is an Indian child, the court shall offer to order mediation through the Department  
 21 of Human Services, or if there is mutual party agreement to private mediation and to the party as-  
 22 sumption of costs, through other mediation services, between the Indian child's parents, the Indian  
 23 child's tribe and the proposed adoptive placement.

24 [(6)(a)] **(5)(a)** If the parent files an answer as required under subsection (3) of this section, the  
 25 court, by oral order made on the record or by written order provided to the parent in person or  
 26 mailed to the parent at the address provided by the parent, shall:

27 (A) Inform the parent of the time, place and purpose of the next hearing or hearings related to  
 28 the motion and order to show cause or the adoption petition;

29 (B) Require the parent to appear personally at the next hearing or hearings related to the mo-  
 30 tion and order to show cause or the adoption petition; and

31 (C) Inform the parent that, if the parent fails to appear as ordered for any hearing related to  
 32 the motion and order to show cause or the adoption petition, the court, without further notice and  
 33 in the parent's absence, may take any action that is authorized by law, including but not limited to  
 34 entering a judgment of adoption of the child on the date specified in the order or on a future date,  
 35 without the consent of the parent.

36 (b) If the parent's answer indicates the parent's consent to the adoption, the court may not ac-  
 37 cept the consent unless the consent meets the requirements under ORS 109.301 or, if the child is  
 38 an Indian child, ORS 109.302.

39 [(7)] **(6)** If a parent fails to file a written answer as required in subsection (3) of this section or  
 40 fails to appear for a hearing related to the motion and order to show cause or the petition as di-  
 41 rected by court order under this section, the court, without further notice to the parent and in the  
 42 parent's absence, may take any action that is authorized by law, including but not limited to enter-  
 43 ing a judgment of adoption of the child without the consent of the parent if the court finds:

44 (a) On the date the answer is required or on a future date, the action to be in the child's best  
 45 interests; and

1 (b) That the petitioner complied with the inquiry requirements under ORS 419B.636 (2) to de-  
 2 termine whether there is reason to know that the child is an Indian child.

3 [(8)(a)] (7)(a) Notwithstanding subsection [(7)] (6) of this section or ORS 109.322, 109.323 or  
 4 109.324, the court may not enter a judgment of adoption of an Indian child without the consent of  
 5 the parent unless:

6 (A) The court has offered the parties the opportunity to participate in mediation as required  
 7 under subsection [(5)(c)] (4)(c) of this section;

8 (B) If requested by the tribe, an agreement is in place that requires the proposed adoptive  
 9 placement to maintain connection between the Indian child and the Indian child's tribe;

10 (C) The court determines that the petitioner complied with the notice requirements under ORS  
 11 419B.639 (2);

12 (D) The court determines that evidence, including the testimony of one or more qualified expert  
 13 witnesses under ORS 419B.642, establishes beyond a reasonable doubt that the continued custody  
 14 of the Indian child by the nonconsenting parent is likely to result in serious emotional or physical  
 15 damage to the child and that the petitioner's active efforts under ORS 419B.645 to reunite the Indian  
 16 family did not eliminate the necessity for termination of the nonconsenting parent's parental rights  
 17 based on serious emotional or physical damage to the Indian child; and

18 (E) The court finds that the adoptive placement complies with the placement preferences under  
 19 ORS 419B.654 (2) or, if not, the court finds, upon the petitioner's motion under ORS 419B.654 (3),  
 20 that good cause exists for placement contrary to the placement preferences in ORS 419B.654 (2).

21 (b) The evidence under paragraph (a)(E) of this subsection must show a causal relationship be-  
 22 tween the particular conditions in the Indian child's home and the likelihood that the nonconsenting  
 23 parent's continued custody of the Indian child will result in serious emotional or physical damage  
 24 to the Indian child who is the subject of the adoption proceeding. Evidence that shows the existence  
 25 of community or family poverty, isolation, single parenthood, custodian age, crowded or inadequate  
 26 housing, substance abuse or nonconforming social behavior does not, by itself, establish a causal  
 27 relationship as required by this paragraph.

28 [(9)] (8) If the child has no living parent and no guardian or next of kin in this state qualified  
 29 to appear in behalf of the child, the court may order such notice, if any, to be given as the court  
 30 deems necessary or proper.

31 [(10)] (9) If the child is an Indian child, the child's tribe or Indian custodian may intervene at  
 32 any time as a matter of right.

33  
 34 **CONFORMING AMENDMENTS**  
 35

36 **SECTION 11.** ORS 109.322 is amended to read:

37 109.322. (1) If a parent has been adjudged to be a person with mental illness under ORS 426.130  
 38 or a person with an intellectual disability who is in need of commitment for residential care, treat-  
 39 ment and training under ORS 427.290, and remains so at the time of the adoption proceedings, or  
 40 if a parent is imprisoned in a state or federal prison under a sentence for a term of not less than  
 41 three years and has actually served three years, the petitioner, in accordance with ORS 109.330,  
 42 shall serve on the parent, if the parent has not consented in writing to the adoption, a summons and  
 43 a motion and order to show cause why the adoption of the child should not be ordered without the  
 44 parent's consent.

45 (2) In the case of a parent adjudged to be a person with mental illness under ORS 426.130 or a

1 person with an intellectual disability who is in need of commitment for residential care, treatment  
 2 and training under ORS 427.290, the petitioner shall also serve the summons and the motion and  
 3 order to show cause upon the guardian of the parent. If the parent has no guardian, the court shall  
 4 appoint a guardian ad litem to appear for the parent in the adoption proceedings.

5 (3) Upon hearing, except as provided in ORS 109.330 [(8)] (7) if the child is an Indian child, if  
 6 the court finds that the adoption is in the best interests of the child, the consent of the parent who  
 7 is imprisoned or adjudged to be a person with mental illness or an intellectual disability is not re-  
 8 quired, and the court may proceed regardless of the objection of the parent.

9 (4) This section does not apply when consent is given in loco parentis under ORS 109.325 or  
 10 109.327.

11 **SECTION 12.** ORS 109.324 is amended to read:

12 109.324. (1) If a parent is believed to have willfully deserted the child or neglected without just  
 13 and sufficient cause to provide proper care and maintenance for the child for one year next pre-  
 14 ceding the filing of the petition for adoption, and if the parent does not consent in writing to the  
 15 adoption, the petitioner, in accordance with ORS 109.330, shall serve on the parent a summons and  
 16 a motion and order to show cause why the adoption of the child should not be ordered without the  
 17 parent's consent.

18 (2) Upon hearing or when the parent has failed to file a written answer as required in ORS  
 19 109.330 (3), except as provided in ORS 109.330 [(8)] (7) if the child is an Indian child, if the court  
 20 finds that the parent has willfully deserted the child or neglected without just and sufficient cause  
 21 to provide proper care and maintenance for the child for one year next preceding the filing of the  
 22 petition for adoption, the consent of the parent at the discretion of the court is not required and,  
 23 if the court determines that the parent's consent is not required, the court may proceed regardless  
 24 of the objection of the parent.

25 (3) In determining whether the parent has willfully deserted the child or neglected without just  
 26 and sufficient cause to provide proper care and maintenance for the child, the court may:

27 (a) Disregard incidental visitations, communications and contributions; and

28 (b) Consider, among other factors the court finds relevant, whether the custodial parent has  
 29 attempted, without good cause shown, to prevent or to impede contact between the child and the  
 30 parent whose parental rights would be terminated in an action under this section.

31 (4) This section does not apply when consent is given in loco parentis under ORS 109.325 or  
 32 109.327.

33 **SECTION 13.** ORS 151.216 is amended to read:

34 151.216. (1) The Public Defense Services Commission shall:

35 (a) Establish and maintain a public defense system that ensures the provision of public defense  
 36 services consistent with the Oregon Constitution, the United States Constitution and Oregon and  
 37 national standards of justice.

38 (b) Establish an office of public defense services and appoint a public defense services executive  
 39 director who serves at the pleasure of the commission.

40 (c) Adopt policies for contracting for public defense providers not employed by the office of  
 41 public defense services that:

42 (A) Ensure compensation, resources and caseloads are in accordance with national and regional  
 43 best practices;

44 (B) Promote policies for public defense provider compensation and resources that are compara-  
 45 ble to prosecution compensation and resources;



- 1 (C) Ensure funding and resources to support required data collection and training requirements;  
 2 and
- 3 (D) Recognize the need to consider overhead costs that account for the cost of living and busi-  
 4 ness cost differences in each county or jurisdiction, including but not limited to rent, professional  
 5 membership dues, malpractice insurance and other insurance and other reasonable and usual oper-  
 6 ating costs.
- 7 (d) Establish operational and contracting systems that allow for oversight, ensure transparency  
 8 and stakeholder engagement and promote equity, inclusion and culturally specific representation.
- 9 (e) Review the caseload policies described in paragraph (c)(A) of this subsection annually, and  
 10 revise the policies as necessary and at least every four years.
- 11 (f) Adopt a statewide workload plan, based on the caseload policies described in paragraph (c)(A)  
 12 of this subsection, that takes into account the needs of each county or jurisdiction, practice struc-  
 13 ture and type of practice overseen by the office of public defense services.
- 14 (g) Submit the budget of the commission and the office of public defense services to the Legis-  
 15 lative Assembly after the budget is submitted to the commission by the director and approved by the  
 16 commission. The Chief Justice of the Supreme Court and the chairperson of the commission shall  
 17 present the budget to the Legislative Assembly.
- 18 (h) Review and approve any public defense services contract negotiated by the director before  
 19 the contract can become effective.
- 20 (i) Adopt a compensation plan, classification system and personnel plan for the office of public  
 21 defense services that are commensurate with other state agencies.
- 22 (j) Adopt policies, procedures, standards and guidelines regarding:
- 23 (A) The determination of financial eligibility of persons entitled to be represented by appointed  
 24 counsel at state expense;
- 25 (B) The appointment of counsel, including the appointment of counsel at state expense regard-  
 26 less of financial eligibility in juvenile delinquency matters;
- 27 (C) The fair compensation of counsel appointed to represent a person financially eligible for  
 28 appointed counsel at state expense;
- 29 (D) Appointed counsel compensation disputes;
- 30 (E) Any other costs associated with the representation of a person by appointed counsel in the  
 31 state courts that are required to be paid by the state under ORS 34.355, 135.055, 138.500, 138.590,  
 32 161.346, 161.348, 161.365, 419A.211, 419B.201, 419B.208, [419B.518,] 419B.908, 419C.206, 419C.209,  
 33 419C.408, 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315 or any  
 34 other provision of law that expressly provides for payment of such compensation, costs or expenses  
 35 by the commission;
- 36 (F) Professional qualifications for counsel appointed to represent public defense clients;
- 37 (G) Performance for legal representation;
- 38 (H) The contracting of public defense services;
- 39 (I) Contracting with expert witnesses to allow contracting with out-of-state expert witnesses  
 40 only if in-state expert witnesses are not available or are more expensive than out-of-state expert  
 41 witnesses; and
- 42 (J) Any other matters necessary to carry out the duties of the commission.
- 43 (k) Establish a peer review system for the approval of nonroutine fees and expenses incurred in  
 44 cases involving aggravated murder and the crimes listed in ORS 137.700 and 137.707. The review  
 45 shall be conducted by a panel of attorneys who practice in the area of criminal defense.

1 (L) Establish a complaint process that allows district attorneys, criminal defense counsel and the  
2 public to file complaints concerning the payment from public funds of nonroutine fees and expenses  
3 incurred in cases.

4 (m) Reimburse the State Court Administrator from funds deposited in the Public Defense Ser-  
5 vices Account established by ORS 151.225 for the costs of personnel and other costs associated with  
6 location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State  
7 Court Administrator.

8 (2) Policies, procedures, standards and guidelines adopted by the commission supersede any  
9 conflicting rules, policies or procedures of the Public Defender Committee, State Court Administra-  
10 tor, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review  
11 Board related to the exercise of the commission's administrative responsibilities under this section  
12 and transferred duties, functions and powers as they occur.

13 (3) The commission may accept gifts, grants or contributions from any source, whether public  
14 or private. However, the commission may not accept a gift, grant or contribution if acceptance  
15 would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the  
16 Public Defense Services Account established by ORS 151.225 and expended for the purposes for  
17 which given or granted.

18 (4) The commission may not:

19 (a) Make any decision regarding the handling of any individual case;

20 (b) Have access to any case file; or

21 (c) Interfere with the director or any member of the staff of the director in carrying out pro-  
22 fessional duties involving the legal representation of public defense clients.

23 **SECTION 14.** ORS 419B.914 is amended to read:

24 419B.914. If the child or ward is before the court, the court has the power to proceed with the  
25 case without service upon those entitled to service under ORS 419B.812 to 419B.839 if diligent ef-  
26 forts have failed to reveal the identity or the whereabouts of the person, except that:

27 (1) No order entered pursuant to ORS 419B.500, 419B.502, 419B.504, 419B.506 and 419B.508 may  
28 be entered unless ORS [419B.518,] 419B.521, 419B.524 and 419B.812 to 419B.839 are complied with.

29 (2) No order for support as provided in ORS 419B.400, 419B.402, 419B.404 and 419B.406 may be  
30 entered against a person unless that person is served as provided in ORS 419B.812 to 419B.839.

31  
32 **MISCELLANEOUS**

33  
34 **SECTION 15.** The unit captions used in this 2023 Act are provided only for the conven-  
35 ience of the reader and do not become part of the statutory law of this state or express any  
36 legislative intent in the enactment of this 2023 Act.

37 **SECTION 16.** The amendments to ORS 109.322, 109.324, 109.326, 109.330, 151.216, 419B.195,  
38 419B.205, 419B.208, 419B.371, 419B.532, 419B.639, 419B.647 and 419B.914 by sections 1 to 7 and  
39 9 to 14 of this 2023 Act and the repeal of ORS 419B.518 by section 8 of this 2023 Act apply to  
40 appointments of counsel made on or after the effective date of this 2023 Act.