

A-Engrossed
Senate Bill 865

Ordered by the Senate April 11
Including Senate Amendments dated April 11

Sponsored by Senator GELSER BLOUIN; Senator MANNING JR

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.

Directs Department of Human Services to begin search for relative placement resources immediately upon child or ward entering substitute care. Directs department to take into consideration parent's objection to department's contacting or placing child or ward with certain relatives. Directs department to provide notice to parents and relative placement resources regarding current caretaker priority status if child or ward remains in substitute care for at least 12 months.

Modifies direction to department regarding home studies and placement reports to provide that current caretaker in specified circumstances is considered to have priority as guardian, potential placement resource or prospective adoptive parent. Prohibits department from moving child or ward to prevent person from establishing current caretaker relationship or caregiver relationship with child or ward.

Declares child support arrears owed to State of Oregon are deemed satisfied upon termination of parental rights. Permits court to deem satisfied child support arrears owed to State of Oregon by parent.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to children in substitute care; creating new provisions; amending ORS 109.270, 419B.192
3 and 419B.402; and declaring an emergency.

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

5 **SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 419B.**

6 **SECTION 2. (1) If the Department of Human Services places a child or ward in substitute**
7 **care, the department shall immediately begin searching for potential substitute care place-**
8 **ments from among the relatives of the child or ward.**

9 **(2) When conducting the search under this section, the department shall:**

10 **(a) Involve the parents of the child or ward in the search;**

11 **(b) Provide each parent with the opportunity to identify any relatives the parent objects**
12 **to the department contacting or whom the parent objects to the department considering as**
13 **a potential substitute care placement resource or prospective adoptive parent;**

14 **(c) Take into consideration a parent's objections under paragraph (b) of this subsection**
15 **before contacting the relatives of the child or ward; and**

16 **(d) Provide written notification to the parents and any relative identified by the depart-**
17 **ment as a potential placement resource or prospective adoptive parent that, if the child or**
18 **ward continues in substitute care for at least 12 months, the current caretaker of the child**
19 **or ward may have priority under ORS 109.270 and 419B.192 as a prospective adoptive parent.**

20 **SECTION 3. ORS 109.270 is amended to read:**

21 109.270. (1) Rules adopted by the Department of Human Services for home studies and placement

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 reports under ORS 109.276 (7) and (8) must, at a minimum, require the department to:

2 (a) Consider each prospective adoptive parent on the basis of the prospective adoptive parent's
3 ability to meet the individual needs of the child for safety, attachment and well-being;

4 (b) Safeguard a child's rights under ORS 419B.090 (3) by [*considering a child's relatives and*
5 *current caretaker as having equal status and priority as prospective adoptive parents in the consider-*
6 *ation of each of the relative's and current caretaker's respective abilities to meet the child's individual*
7 *needs for safety, attachment and well-being; and*], **except as provided in ORS 419B.654 (2):**

8 **(A) If the child has been in the care of the current caretaker for the 24 months imme-**
9 **diately preceding the date the child or ward becomes eligible for adoption, considering the**
10 **current caretaker to have priority status as a prospective adoptive parent; or**

11 **(B) If the child or ward has not been in the care of the current caretaker for the 24**
12 **months immediately preceding the date the child becomes eligible for adoption:**

13 (i) **If the child or ward is under 30 months of age, considering a relative known to the**
14 **child to have priority status; or**

15 (ii) **If the child is at least 30 months of age, considering the current caretaker and rela-**
16 **tives known to the child or ward to have equal status and priority as prospective adoptive**
17 **parents under ORS 419B.192;**

18 (c) Give a child's [*relatives and*] current caretaker **and relatives known to the child** a greater
19 weight in the consideration of suitability as prospective adoptive parents as compared to the
20 department's consideration of other persons seeking to adopt a child who are not relatives **known**
21 **to the child or ward** or current caretakers[.]; **and**

22 **(d) If an adoption is disrupted, consider any relative or current caretaker who was not**
23 **initially selected by the department as the prospective adoptive parent to be considered as**
24 **an adoptive resource.**

25 (2) For purposes of this section, "current caretaker" has the meaning given that term in ORS
26 419A.004.

27 **SECTION 4.** ORS 419B.192 is amended to read:

28 419B.192. (1) **As used in this section:**

29 (a) **"Caregiver relationship" has the meaning given that term in ORS 419B.116.**

30 (b) **"Placement" includes adoptive placement of a child or ward, selection of a guardian**
31 **for a child or ward or placement or continuation of placement of a child or ward in substitute**
32 **care.**

33 [(1)] (2) If the court finds that a child or ward is in need of placement [*or continuation in sub-*
34 *stitute care*], there shall be a preference given to placement of the child or ward with relatives
35 **known to the child or ward** and **with** persons who have a caregiver relationship with the child
36 or ward [*as defined in ORS 419B.116*]. The Department of Human Services shall make diligent efforts
37 to place the child or ward with such persons and shall report to the court the efforts made by the
38 department to effectuate that placement.

39 [(2)] (3) If a child or ward in need of placement [*or continuation in substitute care*] has a sibling
40 also in need of placement [*or continuation in substitute care*], the department shall make diligent ef-
41 forts to place the siblings together and shall report to the court the efforts made by the department
42 to carry out the placement, unless the court finds that placement of the siblings together is not in
43 the best interests of the child or the ward or the child's or the ward's sibling.

44 [(3)] (4) In attempting to place the child or ward pursuant to subsections [(1) and] (2) **and (3)**
45 of this section, the department shall consider, [*but not be limited to considering*] **at a minimum**, the

1 following:

2 (a) The ability of the person being considered to provide safety for the child or ward, including
3 a willingness to cooperate with any restrictions placed on contact between the child or ward and
4 others, and to prevent anyone from influencing the child or ward in regard to the allegations of the
5 case;

6 (b) The ability of the person being considered to support the efforts of the department to im-
7 plement the permanent plan for the child or ward;

8 (c) The ability of the person being considered to meet the child or ward's physical, emotional
9 and educational needs, including the child or ward's need to continue in the same school or educa-
10 tional placement;

11 **(d) The ability of the person being considered to maintain safe, long-term contact with**
12 **siblings, relatives and caregivers known to the child or ward and others with whom the child**
13 **or ward has developed an emotional attachment;**

14 [(d)] (e) Which person has the closest existing personal relationship with the child or ward if
15 more than one person requests to have the child or ward placed with them pursuant to this section;
16 and

17 [(e)] (f) The ability of the person being considered to provide a placement for the child's or
18 ward's sibling who is also in need of placement or continuation in substitute care.

19 [(4)] (5) When the court is required to make findings regarding the department's diligent efforts
20 to place a child or ward with relatives or persons with a caregiver relationship under subsection
21 [(1)] (2) of this section, and the court determines that, contrary to the placement decision of the
22 department, placement with a relative **or caregiver** is not in the best interest of the child or ward
23 under ORS 419B.349, the court shall make written findings setting forth the reasons why the court
24 finds that placement of the child or ward with an available relative **or caregiver** is not in the best
25 interest of the child.

26 [(5)] (6) Notwithstanding subsections [(1) to (4)] (2) to (5) of this section, in cases where there
27 is reason to know, as described in ORS 419B.636, the child or ward is an Indian child, the depart-
28 ment shall make diligent efforts to place the child or ward according to the placement preferences
29 described in ORS 419B.654.

30 **(7) The department may not move a child or ward who is in substitute care for the pur-**
31 **pose of preventing the establishment of a caregiver relationship or a current caretaker re-**
32 **lationship.**

33 **SECTION 5.** ORS 419B.402 is amended to read:

34 419B.402. (1) **Pursuant to ORS 18.035, the court shall ensure that** any order for support en-
35 tered pursuant to ORS 419B.400 [*shall be*] **is** entered as a judgment. [*and the court does not have the*
36 *power to set aside, alter or modify the judgment, or any portion thereof, which provides for any pay-*
37 *ment of money, either for minor children or the support of a party, which has accrued prior to the filing*
38 *of a motion to set aside, alter or modify the judgment.*]

39 **(2) If a motion is filed to set aside, alter or modify a judgment described in subsection**
40 **(1) of this section, the court may not set aside, alter or modify the judgment, or any portion**
41 **of the judgment, to the extent that the set-aside, alteration or modification would affect**
42 **moneys that accrued prior to the date the motion is served on the nonmoving party if the**
43 **moneys that accrued are for minor children or the support of a party.**

44 **(3)(a) Notwithstanding subsection (2) of this section, when a judgment is entered termi-**
45 **nating or relinquishing a parent's parental rights, any child support arrears for that child**

1 owed to the State of Oregon by the parent are deemed satisfied as a matter of law.

2 (b) Nothing in subsection (2) of this section limits the authority of the court to deem
3 satisfied any arrears under a judgment described in subsection (1) of this section owed to the
4 State of Oregon by a parent.

5 **SECTION 6.** (1) Section 2 of this 2023 Act and the amendments to ORS 109.270 and
6 419B.192 by sections 3 and 4 of this 2023 Act apply to any placement decision made on or after
7 the effective date of this 2023 Act and to any appeal of a placement decision that is under
8 consideration on the effective date of this 2023 Act.

9 (2) The amendments to ORS 419B.402 by section 5 of this 2023 Act apply to matters in-
10 volving moneys for support that are unpaid or accruing before, on or after the effective date
11 of this 2023 Act.

12 **SECTION 7.** This 2023 Act being necessary for the immediate preservation of the public
13 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
14 on its passage.