

Requested by Senator GELSER BLOUIN

**PROPOSED AMENDMENTS TO
SENATE BILL 865**

1 On page 1 of the printed bill, line 2, delete “and” and insert a comma.

2 In line 3, after “419B.192” insert “, 419B.402 and 419B.506”.

3 Delete lines 5 through 26 and delete pages 2 and 3 and insert:

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

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

10 **“(2) When conducting the search under this section, the department**
11 **shall provide written notification to the parents and any relative**
12 **identified by the department as a potential placement resource or**
13 **prospective adoptive parent that, if the child or ward continues in**
14 **substitute care for at least 12 months, the current caretaker of the**
15 **child or ward may have equal status or priority under ORS 109.270 and**
16 **419B.192 as a prospective adoptive parent.**

17 **“SECTION 3. ORS 109.270 is amended to read:**

18 **“109.270. (1) Rules adopted by the Department of Human Services for**
19 **home studies and placement reports under ORS 109.276 (7) and (8) must, at**
20 **a minimum, require the department to:**

21 **“(a) Consider each prospective adoptive parent on the basis of the pro-**

1 prospective adoptive parent’s ability to meet the individual needs of the child
2 for safety, attachment and well-being;

3 “(b) Safeguard a child’s rights under ORS 419B.090 (3) by [*considering a*
4 *child’s relatives and current caretaker as having equal status and priority as*
5 *prospective adoptive parents in the consideration of each of the relative’s and*
6 *current caretaker’s respective abilities to meet the child’s individual needs for*
7 *safety, attachment and well-being; and*], **except as provided in ORS 419B.654**
8 **(2), considering the current caretaker and relatives to have equal sta-**
9 **tus and priority as prospective adoptive parents under ORS 419B.192;**

10 “(c) Give a child’s relatives and current caretaker a greater weight in the
11 consideration of suitability as prospective adoptive parents as compared to
12 the department’s consideration of other persons seeking to adopt a child who
13 are not relatives or current caretakers[.]; **and**

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

17 “(2) For purposes of this section, ‘current caretaker’ has the meaning
18 given that term in ORS 419A.004.

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

20 **“419B.192. (1) As used in this section:**

21 **“(a) ‘Caregiver relationship’ has the meaning given that term in**
22 **ORS 419B.116.**

23 **“(b) ‘Placement’ includes adoptive placement of a child or ward,**
24 **selection of a guardian for a child or ward or placement or continua-**
25 **tion of placement of a child or ward in substitute care.**

26 “[*(1)*] **(2)** If the court finds that a child or ward is in need of placement
27 [*or continuation in substitute care*], there shall be a preference given to
28 placement of the child or ward with relatives and **with** persons who have a
29 caregiver relationship with the child or ward [*as defined in ORS 419B.116*].

30 The Department of Human Services shall make diligent efforts to place the

1 child or ward with such persons and shall report to the court the efforts
2 made by the department to effectuate that placement.

3 “[2] (3) If a child or ward in need of placement [*or continuation in sub-*
4 *stitute care*] has a sibling also in need of placement [*or continuation in sub-*
5 *stitute care*], the department shall make diligent efforts to place the siblings
6 together and shall report to the court the efforts made by the department to
7 carry out the placement, unless the court finds that placement of the siblings
8 together is not in the best interests of the child or the ward or the child’s
9 or the ward’s sibling.

10 “[3] (4) In attempting to place the child or ward pursuant to subsections
11 [(1) and] (2) **and (3)** of this section, the department shall consider[, *but not*
12 *be limited to considering,*] the following:

13 “(a) The ability of the person being considered to provide safety for the
14 child or ward, including a willingness to cooperate with any restrictions
15 placed on contact between the child or ward and others, and to prevent
16 anyone from influencing the child or ward in regard to the allegations of the
17 case;

18 “(b) The ability of the person being considered to support the efforts of
19 the department to implement the permanent plan for the child or ward;

20 “(c) The ability of the person being considered to meet the child or ward’s
21 physical, emotional and educational needs, including the child or ward’s need
22 to continue in the same school or educational placement;

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

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

30 “[e] (f) The ability of the person being considered to provide a placement

1 for the child’s or ward’s sibling who is also in need of placement or contin-
2 uation in substitute care.

3 “[~~(4)~~] **(5)** When the court is required to make findings regarding the
4 department’s diligent efforts to place a child or ward with relatives or per-
5 sons with a caregiver relationship under subsection [~~(1)~~] **(2)** of this section,
6 and the court determines that, contrary to the placement decision of the de-
7 partment, placement with a relative **or caregiver** is not in the best interest
8 of the child or ward under ORS 419B.349, the court shall make written
9 findings setting forth the reasons why the court finds that placement of the
10 child or ward with an available relative **or caregiver** is not in the best in-
11 terest of the child.

12 “[~~(5)~~] **(6)** Notwithstanding subsections [~~(1) to (4)~~] **(2) to (5)** of this section,
13 in cases where there is reason to know, as described in ORS 419B.636, the
14 child or ward is an Indian child, the department shall make diligent efforts
15 to place the child or ward according to the placement preferences described
16 in ORS 419B.654.

17 **“(7) The department may not move a child or ward who is in sub-**
18 **stitute care for the purpose of preventing the establishment of a**
19 **caregiver relationship or a current caretaker relationship.**

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

21 **“419B.402. (1) Pursuant to ORS 18.035, the court shall ensure that any**
22 **order for support entered pursuant to ORS 419B.400 [shall be] is entered as**
23 **a judgment. [and the court does not have the power to set aside, alter or**
24 **modify the judgment, or any portion thereof, which provides for any payment**
25 **of money, either for minor children or the support of a party, which has ac-**
26 **crued prior to the filing of a motion to set aside, alter or modify the**
27 **judgment.]**

28 **“(2) If a motion is filed to set aside, alter or modify a judgment**
29 **described in subsection (1) of this section, the court may not set aside,**
30 **alter or modify the judgment, or any portion of the judgment, to the**

1 **extent that the set-aside, alteration or modification would affect**
2 **moneys that accrued prior to the date the motion is filed if the moneys**
3 **that accrued are for minor children or the support of a party.**

4 **“(3) Subsection (2) of this section does not apply if the set-aside,**
5 **alteration or modification would affect moneys payable to the De-**
6 **partment of Human Services.**

7 **“SECTION 6.** ORS 419B.506 is amended to read:

8 “419B.506. The rights of the parent or parents may be terminated as pro-
9 vided in ORS 419B.500 if the court finds that the parent or parents have
10 failed or neglected without reasonable and lawful cause to provide for the
11 basic physical and psychological needs of the child or ward for six months
12 prior to the filing of a petition. In determining such failure or neglect, the
13 court shall disregard any incidental or minimal expressions of concern or
14 support and shall consider but is not limited to one or more of the following:

15 “(1) Failure to provide care [*or pay a reasonable portion of substitute*
16 *physical care and maintenance if custody is lodged with others*].

17 “(2) Failure to maintain regular visitation or other contact with the child
18 or ward that was designed and implemented in a plan to reunite the child
19 or ward with the parent.

20 “(3) Failure to contact or communicate with the child or ward or with the
21 custodian of the child or ward. In making this determination, the court may
22 disregard incidental visitations, communications or contributions.

23 **“SECTION 7. (1) Section 2 of this 2023 Act and the amendments to**
24 **ORS 109.270 and 419B.192 by sections 3 and 4 of this 2023 Act apply to**
25 **any placement decision made on or after the effective date of this 2023**
26 **Act and to any appeal of a placement decision that is under consider-**
27 **ation on the effective date of this 2023 Act.**

28 **“(2) The amendments to ORS 419B.420 and 419B.506 by sections 5 and**
29 **6 of this 2023 Act apply to matters involving moneys for support that**
30 **are unpaid or accruing before, on or after the effective date of this 2023**

1 **Act.**

2 **“SECTION 8. This 2023 Act being necessary for the immediate**
3 **preservation of the public peace, health and safety, an emergency is**
4 **declared to exist, and this 2023 Act takes effect on its passage.”.**

5
