

D R A F T

SUMMARY

Digest: The Act makes changes to who can say they have a “caregiver relationship” with a child and how they can intervene in a child welfare matter. (Flesch Readability Score: 60.0).

Modifies the definition of “caregiver relationship.” Modifies the procedure for intervention in child welfare proceedings.

A BILL FOR AN ACT

1
2 Relating to intervention in juvenile dependency matters; amending ORS
3 419B.116.

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

5 **SECTION 1.** ORS 419B.116 is amended to read:

6 419B.116. (1)(a) As used in this section, “caregiver relationship” means a
7 relationship between a person and a child or ward:

8 (A) That has existed:

9 (i) For the 12 months immediately preceding the initiation of the de-
10 pendency proceeding;

11 (ii) For at least six months during the dependency proceeding; or

12 (iii) For half of the child or ward’s life if the child or ward is less than
13 six months of age;

14 (B) In which the person had physical custody of the child or ward, **reg-**
15 **ularly provided 24-hour care for the child or ward** or resided in the same
16 household as the child or ward;

17 (C) In which the person provided the child or ward on a [*daily*] **regular**
18 basis with the love, nurturing and other necessities required to meet the
19 child or ward’s psychological and physical needs; and

1 (D) On which the child depended to meet the child or ward's needs.

2 (b) "Caregiver relationship" does not include a relationship between a
3 child or ward and a person who is the nonrelated foster parent of the child
4 or ward unless the relationship continued for a period of at least 12 consec-
5 utive months **or for at least 24 cumulative months.**

6 (2) A person asserting that the person has a caregiver relationship with
7 a child or ward may file a motion for intervention in a juvenile dependency
8 proceeding.

9 (3) Filing a motion under subsection (2) of this section is the sole means
10 by which a person may become a party to a juvenile dependency proceeding
11 as an intervenor. An order granting intervention under this section is ex-
12 clusively for juvenile dependency proceedings and does not confer standing
13 or rights of intervention in any other action. Intervention is not allowed in
14 proceedings under ORS 419B.500.

15 (4)(a) A motion for intervention under subsection (2) of this section must
16 state:

17 [(a)] (A) The person's relationship to the child or ward and the person's
18 involvement in the child or ward's life;

19 [(b)] (B) The reason that intervention is sought;

20 [(c)] (C) How the person's intervention is [*in the best interests of the child*
21 *or ward;*] **consistent with the legal rights of the child or ward as de-**
22 **scribed in ORS 419B.090 (3); and**

23 [(d) *Why the existing parties cannot adequately present the case; and*]

24 [(e)] (D) What specific relief is being sought.

25 (b) **While a person's motion for intervention is pending, the court**
26 **shall provide the person with notice of and an opportunity to be heard**
27 **in any hearing on the motion.**

28 (5)(a) If a party wishes to oppose a motion for intervention, the party
29 must file a written objection to the motion stating the grounds for the ob-
30 jection no later than 21 days after the motion is filed.

31 (b) If no written objection is filed as provided in this [*paragraph*] **sub-**

1 **section**, the court may grant the motion **for intervention** without a hear-
2 ing.

3 (c) Except as provided in paragraph [(b)] (d) of this subsection, if a
4 written objection is filed as provided in this [paragraph] **subsection**, the
5 court shall hold a hearing on the motion **for intervention**.

6 [(b)] (d) If a motion for intervention does not state a prima facie case as
7 to the facts that must be proved under paragraph [(c)] (e) of this subsection,
8 the court may deny the motion without a hearing.

9 [(c)] (e) If the court holds a hearing on the motion for intervention, the
10 court may grant the motion for intervention if the person moving to inter-
11 vene in the case proves by a preponderance of the evidence that:

12 (A) A caregiver relationship exists between the person and the child or
13 ward;

14 (B) The intervention is [*in the best interests of the child or ward*] **con-**
15 **sistent with the legal rights of the child or ward as described in ORS**
16 **419B.090 (3); and**

17 (C) [*The reason for intervention and*] The specific relief sought [*are*] **is**
18 **consistent with the best interests of the child or ward.;** [*and*]

19 [(D) *The existing parties cannot adequately present the case.*]

20 (f) **The court may find that granting the relief sought under this**
21 **subsection is consistent with the best interests of the child or ward**
22 **regardless of whether there may be one or more alternative options**
23 **available that are also in the best interests of the child or ward.**

24 (6) A person granted intervention is a party to the case and, except as
25 provided in subsection (11) of this section, may be granted such relief as the
26 court determines to be appropriate and in the best interests of the child or
27 ward.

28 (7) A person who is not a party under ORS 419B.875 or a person who in-
29 tends to file a motion for appointment as a community guardian under ORS
30 419B.371 may seek rights of limited participation by filing a written motion
31 for limited participation in a juvenile court proceeding. Except as provided

1 in subsection (9) of this section, the motion must state:

2 (a) The reason that limited participation is being sought;

3 (b) How the person's limited participation is in the best interests of the
4 child or ward;

5 (c) Why the parties cannot adequately present the case; and

6 (d) The specific rights of limited participation that are being sought.

7 (8)(a) If a party wishes to oppose a motion filed under subsection (7) of
8 this section, the party must file a written objection to the motion stating the
9 grounds for the objection no later than 21 days after the motion is filed. If
10 no written objection is filed as provided in this paragraph, the court may
11 grant the motion without a hearing.

12 (b) If a motion seeking rights of limited participation does not state a
13 prima facie case as to the facts that must be proved under paragraph (c) of
14 this subsection, the court may deny the motion without a hearing.

15 (c) If the court holds a hearing on the motion seeking rights of limited
16 participation, the court may grant the motion if the person seeking rights
17 of limited participation proves by a preponderance of the evidence that:

18 (A) The person's limited participation is in the best interests of the child
19 or ward;

20 (B) The reason for limited participation and the specific rights sought are
21 consistent with the best interests of the child or ward; and

22 (C) The parties cannot adequately present the case.

23 (9) The requirements of subsections (7)(c) and (8)(c)(C) of this section do
24 not apply to a motion or court order seeking or granting limited partic-
25 ipation when the right of limited participation sought and granted would be
26 for the purpose of establishing a community guardianship under ORS
27 419B.371.

28 (10) If the court grants a motion under subsection (8) of this section, the
29 court shall specify in the order the rights of limited participation that are
30 being granted.

31 (11)(a) At any time, a person granted intervention or a person granted

1 rights of limited participation may move to be considered a temporary
2 placement or visitation resource for the child or ward.

3 (b) At any time after a court has determined at a permanency hearing
4 that the permanent plan for the child or ward should be something other
5 than to return home, a person granted intervention may move to be consid-
6 ered the permanent placement resource for the child or ward.

7 (12) The court may modify or set aside any order granting intervention
8 or rights of limited participation as provided in ORS 419B.923.

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