

Senate Bill 282

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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**.

Requires Department of Human Services or another agency having guardianship or legal custody of child or ward to make diligent efforts to preserve familial relationships. Requires court placing child or ward in custody of department to make written findings on whether department actions constitute diligent efforts. Modifies provisions governing when permanency hearings must be held.

A BILL FOR AN ACT

1
2 Relating to the maintenance of familial relationships of persons in the juvenile system; amending
3 ORS 418.625, 419A.004, 419B.090, 419B.185, 419B.192, 419B.337, 419B.349, 419B.368, 419B.443,
4 419B.449, 419B.470, 419B.476 and 419B.498.

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

6 **SECTION 1.** ORS 418.625 is amended to read:

7 418.625. As used in ORS 418.625 to 418.645:

8 (1) "Certificate" means a written approval to operate a foster home issued by the Department
9 of Human Services on a form prescribed by the department that states the name of the foster parent,
10 the address of the premises to which the certificate applies and the maximum number of children
11 to be maintained or boarded in the foster home at any one time.

12 (2) "Department" means the Department of Human Services.

13 (3) "Foster home" means any home maintained by a person who has under the care of the person
14 in [*such*] **the** home any child under the age of 21 years [*not related to the person by blood or marriage*
15 *and*] unattended by [*its*] **the child's** parent or guardian, for the purpose of providing [*such*] **the** child
16 with care, food and lodging, but does not include:

17 (a) Any boarding school that is essentially and primarily engaged in educational work;

18 (b) Any home in which a child is provided board and room by a school board;

19 (c) Any foster home under the direct supervision of a private child-caring agency or institution
20 certified by the department;

21 (d) Any home under the direct supervision of a custodial parent for the purpose of providing
22 respite care as defined by rule; or

23 (e) Any developmental disability child foster home as defined in ORS 443.830.

24 **SECTION 2.** ORS 419A.004 is amended to read:

25 419A.004. As used in this chapter and ORS chapters 419B and 419C, unless the context requires
26 otherwise:

27 (1) "CASA Volunteer Program" means a program approved or sanctioned by the juvenile court
28 to recruit, train and supervise volunteer persons to serve as court appointed special advocates.

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 (2) "Child care center" means a residential facility for wards or youth offenders that is licensed
2 under the provisions of ORS 418.240.

3 (3) "Community service" has the meaning given that term in ORS 137.126.

4 (4) "Conflict of interest" means a person appointed to a local citizen review board who has a
5 personal or pecuniary interest in a case being reviewed by that board.

6 (5) "Counselor" means a juvenile department counselor or a county juvenile probation officer.

7 (6) "Court" means the juvenile court.

8 (7) "Court appointed special advocate" or "CASA" means a person appointed by the court pur-
9 suant to a CASA Volunteer Program to act as special advocate pursuant to ORS 419A.170.

10 (8) "Court facility" has the meaning given that term in ORS 166.360.

11 (9) "Department" means the Department of Human Services.

12 (10) "Detention" or "detention facility" means a facility established under ORS 419A.010 to
13 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders
14 pursuant to a judicial commitment or order.

15 (11) "Director" means the director of a juvenile department established under ORS 419A.010 to
16 419A.020 and 419A.050 to 419A.063.

17 (12) "Guardian" means guardian of the person and not guardian of the estate.

18 (13) "Indian child" means any unmarried person less than 18 years of age who is:

19 (a) A member of an Indian tribe; or

20 (b) Eligible for membership in an Indian tribe and is the biological child of a member of an In-
21 dian tribe.

22 (14) "Juvenile court" means the court having jurisdiction of juvenile matters in the several
23 counties of this state.

24 (15) "Local citizen review board" means the board specified by ORS 419A.090 and 419A.092.

25 (16) "Parent" means the biological or adoptive mother and the legal father of the child, ward,
26 youth or youth offender. As used in this subsection, "legal father" means:

27 (a) A man who has adopted the child, ward, youth or youth offender or whose paternity has been
28 established or declared under ORS 109.070 or 416.400 to 416.465 or by a juvenile court; and

29 (b) In cases in which the Indian Child Welfare Act applies, a man who is a father under appli-
30 cable tribal law.

31 (17) "Permanent foster care" means an out-of-home placement in which there is a long-term
32 contractual foster care agreement between the foster parents and the department that is approved
33 by the juvenile court and in which the foster parents commit to raise a ward in substitute care or
34 youth offender until the age of majority.

35 (18) "Planned permanent living arrangement" means an out-of-home placement other than by
36 adoption, placement with a relative or placement with a legal guardian that is consistent with the
37 case plan and in the best interests of the ward.

38 (19) "Public building" has the meaning given that term in ORS 166.360.

39 (20) "Reasonable time" means a period of time that is reasonable given a child or ward's emo-
40 tional and developmental needs and ability to form and maintain lasting attachments.

41 (21) "Records" means any information in written form, pictures, photographs, charts, graphs,
42 recordings or documents pertaining to a case.

43 (22) "Resides" or "residence," when used in reference to the residence of a child, ward, youth
44 or youth offender, means the place where the child, ward, youth or youth offender is actually living
45 or the jurisdiction in which wardship or jurisdiction has been established.

1 (23) “Restitution” has the meaning given that term in ORS 137.103.

2 (24) “Serious physical injury” means:

3 (a) A serious physical injury as defined in ORS 161.015; or

4 (b) A physical injury that:

5 (A) Has a permanent or protracted significant effect on a child’s daily activities;

6 (B) Results in substantial and recurring pain; or

7 (C) In the case of a child under 10 years of age, is a broken bone.

8 (25) “Shelter care” means a home or other facility suitable for the safekeeping of a child, ward,
9 youth or youth offender who is taken into temporary custody pending investigation and disposition.

10 (26) “Short-term detention facility” means a facility established under ORS 419A.050 (3) for
11 holding children, youths and youth offenders pending further placement.

12 **(27) “Sibling” means one of two or more children or wards related by blood, adoption or**
13 **affinity through a common legal or biological parent.**

14 [(27)] (28) “Substitute care” means an out-of-home placement directly supervised by the depart-
15 ment or other agency, including placement in a foster family home, group home or other child caring
16 institution or facility. “Substitute care” does not include care in:

17 (a) A detention facility, forestry camp or youth correction facility;

18 (b) A family home that the court has approved as a ward’s permanent placement, when a private
19 child caring agency has been appointed guardian of the ward and when the ward’s care is entirely
20 privately financed; or

21 (c) In-home placement subject to conditions or limitations.

22 [(28)] (29) “Surrogate” means a person appointed by the court to protect the right of the child,
23 ward, youth or youth offender to receive procedural safeguards with respect to the provision of free
24 appropriate public education.

25 [(29)] (30) “Tribal court” means a court with jurisdiction over child custody proceedings and
26 that is either a Court of Indian Offenses, a court established and operated under the code of custom
27 of an Indian tribe or any other administrative body of a tribe that is vested with authority over child
28 custody proceedings.

29 [(30)] (31) “Ward” means a person within the jurisdiction of the juvenile court under ORS
30 419B.100.

31 [(31)] (32) “Youth” means a person under 18 years of age who is alleged to have committed an
32 act that is a violation, or, if done by an adult would constitute a violation, of a law or ordinance
33 of the United States or a state, county or city.

34 [(32)] (33) “Youth care center” has the meaning given that term in ORS 420.855.

35 [(33)] (34) “Youth offender” means a person who has been found to be within the jurisdiction
36 of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years
37 of age.

38 **SECTION 3.** ORS 419A.004, as amended by section 1, chapter 843, Oregon Laws 2005, is
39 amended to read:

40 419A.004. As used in this chapter and ORS chapters 419B and 419C, unless the context requires
41 otherwise:

42 (1) “CASA Volunteer Program” means a program approved or sanctioned by the juvenile court
43 to recruit, train and supervise volunteer persons to serve as court appointed special advocates.

44 (2) “Child care center” means a residential facility for wards or youth offenders that is licensed
45 under the provisions of ORS 418.240.

- 1 (3) "Community service" has the meaning given that term in ORS 137.126.
- 2 (4) "Conflict of interest" means a person appointed to a local citizen review board who has a
3 personal or pecuniary interest in a case being reviewed by that board.
- 4 (5) "Counselor" means a juvenile department counselor or a county juvenile probation officer.
- 5 (6) "Court" means the juvenile court.
- 6 (7) "Court appointed special advocate" or "CASA" means a person appointed by the court pur-
7 suant to a CASA Volunteer Program to act as special advocate pursuant to ORS 419A.170.
- 8 (8) "Court facility" has the meaning given that term in ORS 166.360.
- 9 (9) "Department" means the Department of Human Services.
- 10 (10) "Detention" or "detention facility" means a facility established under ORS 419A.010 to
11 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders
12 pursuant to a judicial commitment or order.
- 13 (11) "Director" means the director of a juvenile department established under ORS 419A.010 to
14 419A.020 and 419A.050 to 419A.063.
- 15 (12) "Guardian" means guardian of the person and not guardian of the estate.
- 16 (13) "Indian child" means any unmarried person less than 18 years of age who is:
- 17 (a) A member of an Indian tribe; or
- 18 (b) Eligible for membership in an Indian tribe and is the biological child of a member of an In-
19 dian tribe.
- 20 (14) "Juvenile court" means the court having jurisdiction of juvenile matters in the several
21 counties of this state.
- 22 (15) "Local citizen review board" means the board specified by ORS 419A.090 and 419A.092.
- 23 (16) "Parent" means the biological or adoptive mother and the legal father of the child, ward,
24 youth or youth offender. As used in this subsection, "legal father" means:
- 25 (a) A man who has adopted the child, ward, youth or youth offender or whose paternity has been
26 established or declared under ORS 109.070 or 416.400 to 416.465 or by a juvenile court; and
- 27 (b) In cases in which the Indian Child Welfare Act applies, a man who is a father under appli-
28 cable tribal law.
- 29 (17) "Permanent foster care" means an out-of-home placement in which there is a long-term
30 contractual foster care agreement between the foster parents and the department that is approved
31 by the juvenile court and in which the foster parents commit to raise a ward in substitute care or
32 youth offender until the age of majority.
- 33 (18) "Planned permanent living arrangement" means an out-of-home placement other than by
34 adoption, placement with a relative or placement with a legal guardian that is consistent with the
35 case plan and in the best interests of the ward.
- 36 (19) "Public building" has the meaning given that term in ORS 166.360.
- 37 (20) "Reasonable time" means a period of time that is reasonable given a child or ward's emo-
38 tional and developmental needs and ability to form and maintain lasting attachments.
- 39 (21) "Records" means any information in written form, pictures, photographs, charts, graphs,
40 recordings or documents pertaining to a case.
- 41 (22) "Resides" or "residence," when used in reference to the residence of a child, ward, youth
42 or youth offender, means the place where the child, ward, youth or youth offender is actually living
43 or the jurisdiction in which wardship or jurisdiction has been established.
- 44 (23) "Restitution" has the meaning given that term in ORS 137.103.
- 45 (24) "Serious physical injury" means:

1 (a) A serious physical injury as defined in ORS 161.015; or

2 (b) A physical injury that:

3 (A) Has a permanent or protracted significant effect on a child’s daily activities;

4 (B) Results in substantial and recurring pain; or

5 (C) In the case of a child under 10 years of age, is a broken bone.

6 (25) “Shelter care” means a home or other facility suitable for the safekeeping of a child, ward,
7 youth or youth offender who is taken into temporary custody pending investigation and disposition.

8 (26) “Short-term detention facility” means a facility established under ORS 419A.050 (3) for
9 holding children, youths and youth offenders pending further placement.

10 **(27) “Sibling” means one of two or more children or wards related by blood, adoption or**
11 **affinity through a common legal or biological parent.**

12 [(27)] **(28)** “Substitute care” means an out-of-home placement directly supervised by the depart-
13 ment or other agency, including placement in a foster family home, group home or other child caring
14 institution or facility. “Substitute care” does not include care in:

15 (a) A detention facility, forestry camp or youth correction facility;

16 (b) A family home that the court has approved as a ward’s permanent placement, when a private
17 child caring agency has been appointed guardian of the ward and when the ward’s care is entirely
18 privately financed; or

19 (c) In-home placement subject to conditions or limitations.

20 [(28)] **(29)** “Surrogate” means a person appointed by the court to protect the right of the child,
21 ward, youth or youth offender to receive procedural safeguards with respect to the provision of free
22 appropriate public education.

23 [(29)] **(30)** “Tribal court” means a court with jurisdiction over child custody proceedings and
24 that is either a Court of Indian Offenses, a court established and operated under the code of custom
25 of an Indian tribe or any other administrative body of a tribe that is vested with authority over child
26 custody proceedings.

27 [(30)] **(31)** “Ward” means a person within the jurisdiction of the juvenile court under ORS
28 419B.100.

29 [(31)] **(32)** “Young person” means a person who has been found responsible except for insanity
30 under ORS 419C.411 and placed under the jurisdiction of the Psychiatric Security Review Board.

31 [(32)] **(33)** “Youth” means a person under 18 years of age who is alleged to have committed an
32 act that is a violation, or, if done by an adult would constitute a violation, of a law or ordinance
33 of the United States or a state, county or city.

34 [(33)] **(34)** “Youth care center” has the meaning given that term in ORS 420.855.

35 [(34)] **(35)** “Youth offender” means a person who has been found to be within the jurisdiction
36 of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years
37 of age.

38 **SECTION 4.** ORS 419B.090 is amended to read:

39 419B.090. (1) The juvenile court is a court of record and exercises jurisdiction as a court of
40 general and equitable jurisdiction and not as a court of limited or inferior jurisdiction. The juvenile
41 court is called “The _____ Court of _____ County, Juvenile Department.”

42 (2)(a) It is the policy of the State of Oregon to recognize that children are individuals who have
43 legal rights. Among those rights are the right to:

44 (A) Permanency with a safe family;

45 (B) Freedom from physical, sexual or emotional abuse or exploitation; and

1 (C) Freedom from substantial neglect of basic needs.

2 (b) Parents and guardians have a duty to afford their children the rights listed in paragraph (a)
 3 of this subsection. Parents and guardians have a duty to remove any impediment to their ability to
 4 perform parental duties that afford these rights to their children. When a parent or guardian fails
 5 to fulfill these duties, the juvenile court may determine that it is in the best interests of the child
 6 to remove the child from the parent or guardian either temporarily or permanently.

7 (c) The provisions of this chapter shall be liberally construed to the end that a child coming
 8 within the jurisdiction of the court may receive such care, guidance, treatment and control as will
 9 lead to the child’s welfare and the protection of the community.

10 **(3) It is the policy of the State of Oregon to safeguard and promote each child’s right to**
 11 **safety, stability and well-being, including the child’s right to continuity of relationships with**
 12 **parents, siblings, grandparents and other relatives.**

13 [(3)] (4) It is the policy of the State of Oregon to guard the liberty interest of parents protected
 14 by the Fourteenth Amendment to the United States Constitution and to protect the rights and in-
 15 terests of children, as provided in subsection (2) of this section. The provisions of this chapter shall
 16 be construed and applied in compliance with federal constitutional limitations on state action es-
 17 tablished by the United States Supreme Court with respect to interference with the rights of parents
 18 to direct the upbringing of their children, including, but not limited to:

- 19 (a) Guide the secular and religious education of their children;
- 20 (b) Make health care decisions for their children; and
- 21 (c) Discipline their children.

22 [(4)] (5) It is the policy of the State of Oregon, in those cases not described as extreme conduct
 23 under ORS 419B.502, to offer appropriate reunification services to parents and guardians to allow
 24 them the opportunity to adjust their circumstances, conduct or conditions to make it possible for the
 25 child to safely return home within a reasonable time. Although there is a strong preference that
 26 children live in their own homes with their own families, the state recognizes that it is not always
 27 possible or in the best interests of the child or the public for children who have been abused or
 28 neglected to be reunited with their parents or guardians. In those cases, the State of Oregon has the
 29 obligation to create or provide an alternative, safe and permanent home for the child.

30 [(5)] (6) The State of Oregon recognizes the value of the Indian Child Welfare Act, 25 U.S.C.
 31 1901 to 1923, and hereby incorporates the policies of that Act.

32 **SECTION 5.** ORS 419B.185 is amended to read:

33 419B.185. (1) When a child or ward is taken, or is about to be taken, into protective custody
 34 pursuant to ORS 419B.150, 419B.160, 419B.165, 419B.168 and 419B.171 and placed in detention or
 35 shelter care, a parent, child or ward shall be given the opportunity to present evidence to the court
 36 at the hearings specified in ORS 419B.183, and at any subsequent review hearing, that the child or
 37 ward can be returned home without further danger of suffering physical injury or emotional harm,
 38 endangering or harming others, or not remaining within the reach of the court process prior to ad-
 39 judication. At the hearing:

40 (a) The court shall make written findings as to whether the Department of Human Services has
 41 made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or
 42 eliminate the need for removal of the child or ward from the home and to make it possible for the
 43 child or ward to safely return home. When the court finds that no services were provided but that
 44 reasonable services would not have eliminated the need for protective custody, the court shall con-
 45 sider the department to have made reasonable efforts or, if the Indian Child Welfare Act applies,

1 active efforts to prevent or eliminate the need for protective custody. The court shall include in the
 2 written findings a brief description of *[what]* **the** preventive and reunification efforts *[were]* made
 3 by the department.

4 (b) In determining whether a child or ward shall be removed or continued out of home, the court
 5 shall consider whether the provision of reasonable services can prevent or eliminate the need to
 6 separate the family.

7 (c) In determining whether the department has made reasonable efforts or, if the Indian Child
 8 Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child or ward
 9 from the home and to make it possible for the child or ward to safely return home, the court shall
 10 consider the child or ward's health and safety the paramount concerns.

11 (d) The court shall make a written finding in every order of removal that describes why it is in
 12 the best interests of the child or ward that the child or ward be removed from the home or contin-
 13 ued in care.

14 **(e) When the court determines that a child or ward shall be removed from the home or**
 15 **continued in care, the court shall make written findings as to whether the department made**
 16 **diligent efforts pursuant to ORS 419B.192. The court shall include in the written findings a**
 17 **brief description of the diligent efforts made by the department.**

18 *[(e)]* (f) The court shall determine whether the child or ward is an Indian child as defined in
 19 ORS 419A.004 or in the applicable State-Tribal Indian Child Welfare Agreement.

20 *[(f)]* (g) The court may receive testimony, reports and other evidence without regard to whether
 21 the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant
 22 to the determinations and findings required under this section. As used in this paragraph, "relevant
 23 evidence" has the meaning given that term in ORS 40.150.

24 (2) To aid the court in making the written findings required by subsection (1)(a), *[and]* (d) **and**
 25 **(e)** of this section, the department shall present written documentation to the court outlining:

26 **(a)** The reasonable or active efforts made to prevent taking the child or ward into protective
 27 custody and to provide services to make it possible for the child or ward to safely return home;

28 **(b) The diligent efforts the department made pursuant to ORS 419B.192;** and

29 **(c)** Why protective custody is in the best interests of the child or ward.

30 **SECTION 6.** ORS 419B.192 is amended to read:

31 419B.192. (1) **If the court finds that a child or ward in need of placement or continuation**
 32 **in substitute care has a sibling also in need of placement or continuation in substitute care,**
 33 **the court shall give preference to placement of the child or ward with the sibling. The De-**
 34 **partment of Human Services shall make diligent efforts to place the siblings together and**
 35 **shall report to the court the efforts made by the department to effectuate that placement.**

36 *[(1)]* (2) If the court finds that a child or ward is in need of placement or continuation in sub-
 37 stitute care, *[there shall be a]* **the court shall give** preference *[given]* to placement **of the child or**
 38 **ward** with relatives and persons who have a caregiver relationship, **as defined in ORS 419B.116,**
 39 with the child or ward *[as defined in ORS 419B.116]* **and with other persons with whom the child**
 40 **or ward has a close personal relationship.** The department *[of Human Services]* shall make *[rea-*
 41 *sonable]* **diligent** efforts to place the child or ward with such persons and shall report to the court
 42 *[what]* **the** efforts *[were]* made **by the department** to effectuate *[such a]* **that** placement.

43 *[(2)]* (3) In attempting to place the child or ward pursuant to *[subsection]* **subsections (1) and**
 44 **(2)** of this section, the department shall consider, but not be limited to **considering,** the following:

45 (a) The ability of the person being considered to provide safety for the child or ward, including

1 a willingness to cooperate with any restrictions placed on contact between the child or ward and
 2 others, and to prevent anyone from influencing the child or ward in regard to the allegations of the
 3 case;

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

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

9 (d) Which person has the closest existing personal relationship with the child or ward if more
 10 than one person requests to have the child or ward placed with them pursuant to this section[.];
 11 **and**

12 **(e) The ability of the person being considered also to provide a placement for the child**
 13 **or ward's sibling who is in need of placement or continuation in substitute care.**

14 *[(3)]* (4) Notwithstanding subsections (1) *[and (2)]* to (3) of this section, in cases where the Indian
 15 Child Welfare Act applies, the placement preferences of the Indian Child Welfare Act shall be fol-
 16 lowed.

17 **SECTION 7.** ORS 419B.337 is amended to read:

18 419B.337. (1) When the court determines it would be in the best interest and for the welfare of
 19 a ward, the court may place the ward in the legal custody of the Department of Human Services for
 20 care, placement and supervision. When the court enters an order removing a ward from the ward's
 21 home or an order continuing care, the court shall make a written finding as to whether:

22 (a) Removal of the ward from the ward's home or continuation of care is in the best interest and
 23 for the welfare of the ward; *[and]*

24 (b) Reasonable efforts, considering the circumstances of the ward and parent, have been made
 25 to prevent or eliminate the need for removal of the ward from the home or to make it possible for
 26 the ward to safely return home. In making this finding, the court shall consider the ward's health
 27 and safety the paramount concerns; **and**

28 **(c) Diligent efforts have been made to place the ward pursuant to ORS 419B.192.**

29 (2) The court may specify the particular type of care, supervision or services to be provided by
 30 the Department of Human Services to wards placed in the department's custody and to the parents
 31 or guardians of the wards, but the actual planning and provision of such care, supervision or ser-
 32 vices is the responsibility of the department. The department may place the ward in a child care
 33 center authorized to accept the ward.

34 **(3) The court may specify the type and frequency of visitation by the ward's parents and**
 35 **siblings that is to be provided by the department. The department is responsible for devel-**
 36 **oping and implementing a visitation plan consistent with the court's order.**

37 *[(3)]* (4) Uniform commitment blanks, in a form approved by the Director of Human Services,
 38 shall be used by all courts for placing wards in the legal custody of the Department of Human Ser-
 39 vices.

40 *[(4)]* (5) If the ward has been placed in the custody of the Department of Human Services, the
 41 court shall make no commitment directly to any residential facility, but shall cause the ward to be
 42 delivered into the custody of the department at the time and place fixed by rules of the department.
 43 A ward so committed may not be placed in a Department of Corrections institution.

44 *[(5)]* (6) Commitment of a ward to the Department of Human Services continues until dismissed
 45 by the court or until the ward becomes 21 years of age.

1 [(6)] (7) A court may dismiss commitment of a ward to the Department of Human Services if:

2 (a)(A) Dismissal is appropriate because the ward has been safely reunited with a parent or be-
3 cause a safe alternative to reunification has been implemented for the ward; and

4 (B) The ward is at least 14 years of age but less than 21 years of age and the court finds that:

5 (i) The department has provided case planning pursuant to ORS 419B.343 that addresses the
6 ward's needs and goals for a successful transition to independent living, including needs and goals
7 relating to housing, physical and mental health, education, employment, community connections and
8 supportive relationships;

9 (ii) The department has provided appropriate services pursuant to the case plan;

10 (iii) The department has involved the ward in the development of the case plan and in the pro-
11 vision of appropriate services; and

12 (iv) The ward has safe and stable housing and is unlikely to become homeless as a result of
13 dismissal of commitment of the ward to the department; or

14 (b) The ward has been committed to the custody of the Oregon Youth Authority.

15 **SECTION 8.** ORS 419B.349 is amended to read:

16 419B.349. Commitment of a child or ward to the Department of Human Services does not ter-
17 minate the court's continuing jurisdiction to protect the rights of the child or ward or the child or
18 ward's parents or guardians. Notwithstanding ORS 419B.337 [(4)] (5), if upon review of a placement
19 of a child or ward made by the department the court determines that the placement is not in the
20 best interest of the child or ward, the court may direct the department to place the child or ward
21 **in the care of the child or ward's parents**, in foster care **with a related foster care provider**
22 **who is a relative, in foster care with another foster care provider**, in residential care, in group
23 care or **in** some other specific type of residential placement, but unless otherwise required by law,
24 the court may not direct a specific placement. The actual planning and placement of the child or
25 ward is the responsibility of the department. Nothing in this section affects any contractual right
26 of a private agency to refuse or terminate a placement.

27 **SECTION 9.** ORS 419B.368 is amended to read:

28 419B.368. (1) The court, on its own motion or upon the motion of a party and after such hearing
29 as the court may direct, may review, modify or vacate a guardianship order.

30 (2) The court may modify a guardianship order if the court determines to do so would be in the
31 child's best interests.

32 (3) The court may vacate a guardianship order, return the child to the custody of a parent and
33 make any other order the court is authorized to make under this chapter if the court determines
34 that:

35 (a) It is in the child's best interests to vacate the guardianship;

36 (b) The conditions and circumstances giving rise to the establishment of the guardianship have
37 been ameliorated; and

38 (c) The parent is presently able and willing to adequately care for the child.

39 (4) The court may vacate a guardianship order after determining that the guardian is no longer
40 willing or able to fulfill the duties of a guardian. Upon vacating a guardianship order under this
41 subsection, the court shall conduct a hearing:

42 (a) Within 14 days, make written findings required in ORS 419B.185 (1)(a), **(d) and (e) [to (d)]**
43 and make any order directing disposition of the child that the court is authorized to make under this
44 chapter; and

45 (b) Pursuant to ORS 419B.476 within 90 days.

1 (5) In determining whether it is in the child’s best interests to modify or vacate a guardianship,
 2 the court shall consider, but is not limited to considering:

3 (a) The child’s emotional and developmental needs;

4 (b) The child’s need to maintain existing attachments and relationships and to form attachments
 5 and relationships, including those with the birth family;

6 (c) The child’s health and safety; and

7 (d) The child’s wishes.

8 (6) In addition to service required under ORS 419B.851, a party filing a motion to vacate a
 9 guardianship shall serve the motion upon the Department of Human Services.

10 (7) Notwithstanding subsection (1) of this section, a parent may not move the court to vacate
 11 a guardianship once a guardianship is granted under ORS 419B.365.

12 **SECTION 10.** ORS 419B.443 is amended to read:

13 419B.443. (1) The agency **described in ORS 419B.440** shall file the reports required by ORS
 14 419B.440 (2) and (3) at the end of the initial six-month period and no less frequently than each six
 15 months thereafter. The agency shall file reports more frequently if the court so orders. The reports
 16 shall include, but not be limited to:

17 (a) A description of the problems or offenses that necessitated the placement of the child or
 18 ward with the agency;

19 (b) A description of the type and an analysis of the effectiveness of the care, treatment and
 20 supervision that the agency has provided for the child or ward[, *together with*];

21 (c) A list of all placements made since the child or ward has been in the guardianship or legal
 22 custody of an agency and the length of time the child or ward has spent in each placement;

23 **(d) A list of all schools the child or ward has attended since the child or ward has been**
 24 **in the guardianship or legal custody of an agency, the length of time the child or ward has**
 25 **spent in each school and, for a child or ward 14 years of age or older, the number of high**
 26 **school credits the child or ward has earned;**

27 **(e) A list of the face-to-face contacts the assigned caseworker has had with the child or**
 28 **ward since the child or ward has been in the guardianship or legal custody of an agency and**
 29 **the place and date of each contact;**

30 **(f) A list of the visits the child or ward has had with the child or ward’s parents or sib-**
 31 **lings since the child or ward has been in the guardianship or legal custody of an agency and**
 32 **the place and date of each visit;**

33 [(c)] **(g)** A description of agency efforts to return the child or ward to the parental home or find
 34 permanent placement for the child or ward, including, when applicable, efforts to assist the parents
 35 in remedying factors which contributed to the removal of the child or ward from the home;

36 [(d)] **(h)** A proposed treatment plan or proposed continuation or modification of an existing
 37 treatment plan, including[, *when applicable, terms of visitation to be allowed and expected of*
 38 *parents*] **a proposed visitation plan or proposed continuation or modification of an existing**
 39 **visitation plan**, and a description of efforts expected of the child or ward and the parents to remedy
 40 factors that have prevented the child or ward from safely returning home within a reasonable time;
 41 and

42 [(e)] **(i)** If continued substitute care is recommended, a proposed timetable for the child or ward’s
 43 return home or other permanent placement or a justification of why extended substitute care is
 44 necessary.

45 (2) Notwithstanding the requirements of subsection (1) of this section, reports following the ini-

1 tial report need not contain information contained in prior reports.

2 **SECTION 11.** ORS 419B.449 is amended to read:

3 419B.449. (1) Upon receiving any report required by ORS 419B.440 [*and 419B.443*], the court may
 4 hold a hearing to review the child or ward’s condition and circumstances and to determine if the
 5 court should continue jurisdiction and wardship or order modifications in the care, placement and
 6 supervision of the child or ward. The court shall hold a hearing:

7 (a) In all cases under ORS 419B.440 (3) when the parents’ rights have been terminated; or

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

11 (2) The court shall conduct a hearing provided in subsection (1) of this section in the manner
 12 provided in ORS 419B.310, except that the court may receive testimony and reports as provided in
 13 ORS 419B.325. At the conclusion of the hearing, the court shall enter findings of fact if the decision
 14 is to continue the child or ward in substitute care. [*Such*] **The** findings shall specifically state:

15 (a)(A) Why continued care is necessary as opposed to returning the child or ward home or
 16 taking prompt action to secure another permanent placement; or

17 [*(b)*] (B) The expected timetable for return or other permanent placement.

18 (b) **Whether the agency having guardianship or legal custody of the child or ward has**
 19 **made diligent efforts to place the child or ward pursuant to ORS 419B.192.**

20 (c) **The number of placements made, schools attended, face-to-face contacts with the**
 21 **assigned caseworker and visits had with parents or siblings since the child or ward has been**
 22 **in the guardianship or legal custody of the agency and whether the frequency of each of**
 23 **these is consistent with the child or ward’s developmental needs and is in the best interests**
 24 **of the child or ward.**

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

28 (3) In making the findings under subsection (2) of this section, the court shall consider the ef-
 29 forts made to develop the concurrent case plan, including, but not limited to, identification and se-
 30 lection of a suitable adoptive placement for the child or ward when adoption is the concurrent case
 31 plan.

32 (4) In addition to findings of fact required by subsection (2) of this section, the court may order
 33 the Department of Human Services to consider additional information in developing the case plan
 34 or concurrent case plan.

35 (5) Any final decision of the court made pursuant to the hearing provided in subsection (1) of
 36 this section is appealable under ORS 419A.200.

37 **SECTION 12.** ORS 419B.470 is amended to read:

38 419B.470. (1) The court shall conduct a permanency hearing within 30 days after a judicial
 39 finding is made under ORS 419B.340 (5) if, based upon that judicial finding, the Department of Hu-
 40 man Services determines that it will not make reasonable efforts to reunify the family.

41 (2) In all other cases when a child or ward is in substitute care, the court shall conduct a
 42 permanency hearing no later than 12 months after the ward was found within the jurisdiction of the
 43 court under ORS 419B.100 or 14 months after the child or ward was placed in substitute care,
 44 whichever is the earlier.

45 (3) If a ward is removed from court sanctioned permanent foster care, the department shall re-

1 quest and the court shall conduct a permanency hearing within three months after the date of the
2 change in placement.

3 **(4) If a ward has been surrendered for adoption or the parents' rights have been termi-**
4 **nated and the department has not physically placed the ward for adoption or initiated**
5 **adoption proceedings within six months after the surrender or the entry of the order ter-**
6 **minating parental rights, the court shall conduct a permanency hearing within 30 days after**
7 **receipt of the report required by ORS 419B.440 (3).**

8 [(4)] (5) Unless good cause otherwise is shown, the court shall also conduct a permanency
9 hearing at any time upon the request of the department, an agency directly responsible for care or
10 placement of the child or ward, parents whose parental rights have not been terminated, an attorney
11 for the child or ward, a court appointed special advocate, a citizen review board, a tribal court or
12 upon its own motion. The court shall schedule the hearing as soon as possible after receiving a re-
13 quest.

14 [(5)] (6) After the initial permanency hearing conducted under subsection (1) or (2) of this sec-
15 tion or any permanency hearing conducted under subsection (3) or [(4)] (5) of this section, the court
16 shall conduct subsequent permanency hearings not less frequently than once every 12 months for
17 as long as the child or ward remains in substitute care.

18 **(7) After the permanency hearing conducted under subsection (4) of this section, the**
19 **court shall conduct subsequent permanency hearings not less frequently than once every six**
20 **months for as long as the ward is not physically placed for adoption or adoption proceedings**
21 **have not been initiated.**

22 [(6)] (8) If a child returns to substitute care after a court's previously established jurisdiction
23 over the child has been dismissed or terminated, a permanency hearing shall be conducted no later
24 than 12 months after the child is found within the jurisdiction of the court on a newly filed petition
25 or 14 months after the child's most recent placement in substitute care, whichever is the earlier.

26 **SECTION 13.** ORS 419B.476 is amended to read:

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

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

31 (a)(A) If the case plan at the time of the hearing is to reunify the family, determine whether the
32 Department of Human Services has made reasonable efforts or, if the Indian Child Welfare Act ap-
33 plies, active efforts to make it possible for the ward to safely return home and whether the parent
34 has made sufficient progress to make it possible for the ward to safely return home. In making its
35 determination, the court shall consider the ward's health and safety the paramount concerns.

36 [(b)] (B) If the case plan at the time of the hearing is something other than to reunify the family,
37 determine whether the department has made reasonable efforts to place the ward in a timely manner
38 in accordance with the plan and to complete the steps necessary to finalize the permanent place-
39 ment.

40 **(b) If more than 12 months have passed since the ward was physically placed for**
41 **adoption, consider whether it is in the best interests of the ward to vacate the order termi-**
42 **nating parental rights or permit the parents to revoke their release or surrender of the**
43 **ward.**

44 **(c) Make the findings under ORS 419B.449 (2).**

45 (3)(a) In the circumstances described in paragraph (b) of this subsection, in addition to making

1 the determination required by subsection (2)(a) or (b) of this section, at a permanency hearing the
2 court shall review the comprehensive plan for the ward's transition to independent living and de-
3 termine and make findings as to:

4 (A) Whether the plan is adequate to ensure the ward's successful transition to independent liv-
5 ing;

6 (B) Whether the department has offered appropriate services pursuant to the plan; and

7 (C) Whether the department has involved the ward in the development of the plan.

8 (b) The requirements of paragraph (a) of this subsection apply when:

9 (A) The ward is 16 years of age or older; or

10 (B) The ward is 14 years of age or older and there is a comprehensive plan for the ward's
11 transition to independent living.

12 (4) At a permanency hearing the court may:

13 (a) If the case plan changed during the period since the last review by a local citizen review
14 board or court hearing and a plan to reunify the family was in effect for any part of that period,
15 determine whether the department has made reasonable efforts or, if the Indian Child Welfare Act
16 applies, active efforts to make it possible for the ward to safely return home. In making its deter-
17 mination, the court shall consider the ward's health and safety the paramount concerns;

18 (b) If the case plan changed during the period since the last review by a local citizen review
19 board or court hearing and a plan other than to reunify the family was in effect for any part of that
20 period, determine whether the department has made reasonable efforts to place the ward in a timely
21 manner in accordance with the plan and to complete the steps necessary to finalize the permanent
22 placement;

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

26 (d) Determine the adequacy and compliance with the case plan and the case progress report;

27 (e) Review the efforts made by the department to develop the concurrent permanent plan, in-
28 cluding but not limited to, identification and selection of a suitable adoptive placement for the ward;

29 (f) Order the department to develop or expand the case plan or concurrent permanent plan and
30 provide a case progress report to the court and other parties within 10 days after the permanency
31 hearing;

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

33 (h) Order the local citizen review board to review the status of the ward prior to the next court
34 hearing; or

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

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

39 (a) The court's determination required under subsections (2) and (3) of this section, including a
40 brief description of the efforts the department has made with regard to the case plan in effect at the
41 time of the permanency hearing;

42 (b) The court's determination of the permanency plan for the ward that includes whether and,
43 if applicable, when:

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

45 (B) The ward will be placed for adoption, and a petition for termination of parental rights will

1 be filed;

2 (C) The ward will be referred for establishment of legal guardianship; or

3 (D) The ward will be placed in another planned permanent living arrangement;

4 (c) If the court determines that the permanency plan for the ward should be to return home
5 because further efforts will make it possible for the ward to safely return home within a reasonable
6 time, the court's determination of the services in which the parents are required to participate, the
7 progress the parents are required to make and the period of time within which the specified progress
8 must be made;

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

11 (e) If the court determines that the permanency plan for the ward should be establishment of a
12 legal guardianship or placement with a fit and willing relative, the court's determination of why
13 neither placement with parents nor adoption is appropriate;

14 (f) If the court determines that the permanency plan for the ward should be a planned permanent
15 living arrangement, the court's determination of a compelling reason, that must be documented by
16 the department, why it would not be in the best interests of the ward to be returned home, placed
17 for adoption, placed with a legal guardian or placed with a fit and willing relative;

18 (g) If the current placement is not expected to be permanent, the court's projected timetable for
19 return home or for placement in another planned permanent living arrangement. If the timetable set
20 forth by the court is not met, the department shall promptly notify the court and parties; and

21 (h) If an Indian child is involved, the tribal affiliation of the ward.

22 (6) If an Indian child is involved, the court shall follow the placement preference established by
23 the Indian Child Welfare Act.

24 (7) Any final decision of the court made pursuant to the permanency hearing is appealable under
25 ORS 419A.200. On appeal of a final decision of the court under this subsection, the court's finding,
26 if any, under ORS 419B.340 (5) that the department is not required to make reasonable efforts to
27 make it possible for the ward to safely return home is an interlocutory order to which a party may
28 assign error.

29 **SECTION 14.** ORS 419B.498 is amended to read:

30 419B.498. (1) Except as provided in subsection (2) of this section, the Department of Human
31 Services shall simultaneously file a petition to terminate the parental rights of a child or ward's
32 parents and identify, recruit, process and approve a qualified family for adoption if the child or ward
33 is in the custody of the department and:

34 (a) The child or ward has been in substitute care under the responsibility of the department for
35 15 months of the most recent 22 months;

36 (b) A parent has been convicted of murder of another child of the parent, voluntary
37 manslaughter of another child of the parent, aiding, abetting, attempting, conspiring or soliciting to
38 commit murder or voluntary manslaughter of the child or ward or of another child of the parent or
39 felony assault that has resulted in serious physical injury to the child or ward or to another child
40 of the parent; or

41 (c) A court of competent jurisdiction has determined that the child or ward is an abandoned
42 child.

43 (2) The department shall file a petition to terminate the parental rights of a parent in the cir-
44 cumstances described in subsection (1) of this section unless:

45 (a) The child or ward is being cared for by a relative and that placement is intended to be

1 permanent;

2 (b) There is a compelling reason, which is documented in the case plan, for determining that
3 filing such a petition would not be in the best interests of the child or ward. Such compelling rea-
4 sons include, but are not limited to:

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

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

10 (C) The court or local citizen review board in a prior hearing or review determined that while
11 the case plan was to reunify the family the department did not make reasonable efforts or, if the
12 Indian Child Welfare Act applies, active efforts to make it possible for the child or ward to safely
13 return home; or

14 (c) The department has not provided to the family of the child or ward, consistent with the time
15 period in the case plan, such services as the department deems necessary for the child or ward to
16 safely return home, if reasonable efforts to make it possible for the child or ward to safely return
17 home are required to be made with respect to the child or ward.

18