

House Bill 2897

Sponsored by Representative WHISNANT, Senator KRUSE; Representatives BENTZ, BRUUN, CAMERON, ESQUIVEL, FREEMAN, GARRARD, GILLIAM, HANNA, HUFFMAN, JENSON, KRIEGER, MAURER, RICHARDSON, G SMITH, SPRENGER, THOMPSON, WEIDNER, WINGARD, Senators BOQUIST, TELFER

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 court to make written findings regarding preference for and placement of child or ward with relatives and persons with caregiver relationship.

A BILL FOR AN ACT

1
2 Relating to placement of children in protective custody; creating new provisions; and amending ORS
3 419B.185.

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

5 **SECTION 1.** ORS 419B.185 is amended to read:

6 419B.185. (1) When a child or ward is taken, or is about to be taken, into protective custody
7 pursuant to ORS 419B.150, 419B.160, 419B.165, 419B.168 and 419B.171 and placed in detention or
8 shelter care, a parent, child or ward shall be given the opportunity to present evidence to the court
9 at the hearings specified in ORS 419B.183, and at any subsequent review hearing, that the child or
10 ward can be returned home without further danger of suffering physical injury or emotional harm,
11 endangering or harming others, or not remaining within the reach of the court process prior to ad-
12 judication. At the hearing:

13 (a) The court shall make written findings as to whether the Department of Human Services has
14 made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or
15 eliminate the need for removal of the child or ward from the home and to make it possible for the
16 child or ward to safely return home. When the court finds that no services were provided but that
17 reasonable services would not have eliminated the need for protective custody, the court shall con-
18 sider the department to have made reasonable efforts or, if the Indian Child Welfare Act applies,
19 active efforts to prevent or eliminate the need for protective custody. The court shall include in the
20 written findings a brief description of the preventive and reunification efforts made by the depart-
21 ment.

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

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

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

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 ued in care.

2 (e) When the court determines that a child or ward shall be removed from the home or contin-
3 ued in care, the court shall make written findings whether the department made diligent efforts
4 pursuant to ORS 419B.192. The court shall include in its written findings:

5 (A) A brief description of the efforts made by the department;

6 (B) **Whether the child or ward had relatives or persons with a caregiver relationship**
7 **available for placement under ORS 419B.192; and**

8 (C) **The reasons why the child or ward was not placed with relatives or persons with a**
9 **caregiver relationship if they were available.**

10 (f) The court shall determine whether the child or ward is an Indian child as defined in ORS
11 419A.004 or in the applicable State-Tribal Indian Child Welfare Agreement.

12 (g) The court may receive testimony, reports and other evidence without regard to whether the
13 evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant
14 to the determinations and findings required under this section. As used in this paragraph, "relevant
15 evidence" has the meaning given that term in ORS 40.150.

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

18 (a) The efforts made to prevent taking the child or ward into protective custody and to provide
19 services to make it possible for the child or ward to safely return home;

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

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

22 **SECTION 2. The amendments to ORS 419B.185 by section 1 of this 2009 Act apply to**
23 **hearings held on or after the effective date of this 2009 Act.**

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