

HOUSE AMENDMENTS TO HOUSE BILL 3102

By COMMITTEE ON HUMAN SERVICES

April 25

1 On page 1 of the printed bill, delete lines 5 through 30 and delete pages 2 through 8 and insert:

2 “**SECTION 1.** ORS 419A.170 is amended to read:

3 “419A.170. (1) In every case under ORS chapter 419B, the court shall appoint a court appointed
4 special advocate. The court appointed special advocate is deemed a party in these proceedings, and
5 in the furtherance thereof, may be represented by counsel, file pleadings and request hearings and
6 may subpoena, examine and cross-examine witnesses. If the court appointed special advocate is re-
7 presented by counsel, counsel shall be paid from funds available to the Court Appointed Special
8 Advocate Volunteer Program. No funds from the Public Defense Services Account or Judicial De-
9 partment operating funds may be used for this purpose.

10 “(2) Subject to the direction of the court, the duties of the court appointed special advocate are
11 to:

12 “(a) Investigate all relevant information about the case;

13 “(b) Advocate for the child or ward, ensuring that all relevant facts are brought before the
14 court;

15 “(c) Facilitate and negotiate to ensure that the court, Department of Human Services, if appli-
16 cable, and the child or ward’s attorney, if any, fulfill their obligations to the child or ward in a
17 timely fashion; and

18 “(d) Monitor all court orders to ensure compliance and to bring to the court’s attention any
19 change in circumstances that may require a modification of the court’s order.

20 “(3) If a juvenile court does not have available to it a CASA Volunteer Program, or a sufficient
21 number of qualified CASA volunteers, the court may, in fulfillment of the requirements of this sec-
22 tion, appoint a juvenile department employee or other suitable person to represent the child or
23 ward’s interest in court pursuant to ORS 419A.012 or 419B.195.

24 “(4) Any person appointed as a court appointed special advocate in any judicial proceeding on
25 behalf of the child or ward is immune from any liability for defamation or statements made in good
26 faith by that person, orally or in writing, in the course of the case review or judicial proceeding.

27 “(5) Any person appointed as a court appointed special advocate, CASA Volunteer Program di-
28 rector, CASA Volunteer Program employee or member of the board of directors or trustees of any
29 CASA Volunteer Program is immune from any liability for acts or omissions or errors in judgment
30 made in good faith in the course or scope of that person’s duties or employment as part of a CASA
31 Volunteer Program.

32 “(6) Whenever the court appoints a court appointed special advocate or other person under
33 subsections (1) to (3) of this section to represent the child or ward, it may require a parent, if able,
34 or guardian of the estate, if the estate is able, to pay, in whole or in part, the reasonable costs of
35 CASA services including reasonable attorney fees. The court’s order of payment is enforceable in

1 the same manner as an order of support under ORS 419B.408.

2 “(7) Upon presentation of the order of appointment by the court appointed special advocate, any
3 agency, hospital, school organization, division, office or department of the state, doctor, nurse or
4 other health care provider, psychologist, psychiatrist, police department or mental health clinic shall
5 permit the court appointed special advocate to inspect and copy any records relating to the child
6 or ward involved in the case, without the consent of the child, ward or parents.

7 “(8) All records and information acquired or reviewed by a court appointed special advocate
8 during the course of official duties are deemed confidential under ORS 419A.255.

9 “(9) For the purposes of a Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.)
10 grant to this state under Public Law No. 93-247, or any related state or federal legislation, a court
11 appointed special advocate or other person appointed pursuant to subsections (1) to (3) of this sec-
12 tion is deemed a guardian ad litem to represent the interests of the child or ward in proceedings
13 before the court. Any provisions of this section and ORS 419B.035 and 419B.045 that cause this state
14 to lose federal funding are null and void.

15 “(10)(a) There is created a Court Appointed Special Advocate (CASA) Fund in the General Fund.
16 The fund consists of all moneys credited to it. **Interest earned by the Court Appointed Special
17 Advocate Fund shall be credited to the fund.** Moneys in the Court Appointed Special Advocate
18 Fund are continuously appropriated to the [*State Commission on Children and Families and may be
19 used only to carry out the purposes of this section. The commission may apply for and receive funds
20 from federal and private sources for carrying out the provisions of this section.*] **Oregon Department
21 of Administrative Services and may be used only to carry out the purposes of this section.
22 Except as provided in paragraph (b) of this subsection, the department has no administrative
23 or supervisory authority over any CASA Volunteer Program or any court appointed special
24 advocate, as those terms are defined in ORS 419A.004.**

25 “(b) **The department shall distribute moneys in the Court Appointed Special Advocate
26 Fund to CASA Volunteer Programs as defined in ORS 419A.004 or to counties for distribution
27 to CASA Volunteer Programs.**

28 “[11] *The state commission may expend moneys from the Court Appointed Special Advocate Fund
29 directly or indirectly through contracts or grants for the creation, supervision and operation of CASA
30 Volunteer Programs statewide in accordance with the provisions of ORS 419A.045 to 419A.048. The
31 commission may also expend moneys from the Court Appointed Special Advocate Fund to pay the
32 reasonable costs of its administration of the Court Appointed Special Advocate Fund. The commission
33 shall adopt rules for carrying out its responsibilities under this section and ORS 419B.035 and
34 419B.045.*]

35 “**SECTION 2.** ORS 417.735 is amended to read:

36 “417.735. (1) The State Commission on Children and Families shall promote the wellness of
37 children and families at the state level and shall act in accordance with the principles, character-
38 istics and values identified in ORS 417.708 to 417.725. The state commission shall provide no direct
39 services.

40 “(2)(a) Funds for local commissions shall consist of payments from moneys appropriated for local
41 commissions to the State Commission on Children and Families by the Legislative Assembly. The
42 state commission shall develop an equitable formula for the distribution of funds to counties or re-
43 gions for services for children and families, and a minimum annual grant shall be provided to each
44 county or region.

45 “(b) The state commission shall provide technical assistance and research-based information to

1 local commissions to support the development of county goals, performance measures and outcomes
2 for services and programs.

3 “(c) The state commission may withhold funds from a local commission if services and programs
4 funded through the local commission do not meet appropriate performance measures and outcomes.

5 “(3) The state commission shall:

6 “(a) Set guidelines for the planning, coordination and delivery of services by local commissions
7 in partnership with other planning bodies and agencies providing services for children and families.
8 The guidelines shall be consistent with the key elements of the service system developed and im-
9 plemented under ORS 417.705 to 417.801. In conjunction with other planning bodies and agencies
10 providing social supports, the state commission shall use the local coordinated comprehensive plans
11 to advise agencies, the Legislative Assembly and the Governor;

12 “(b) Advise the Legislative Assembly and the Governor concerning possible solutions to prob-
13 lems facing children and families;

14 “(c) In consultation with other agencies, identify high-level and intermediate outcomes relating
15 to children and families and monitor the progress of local coordinated comprehensive plans in
16 meeting intermediate outcome targets;

17 “(d) Encourage the development of innovative projects, based on proven practices of effective-
18 ness, that benefit children and families;

19 “(e) Ensure that all services for children and families are integrated and evaluated according
20 to their outcomes;

21 “(f) Compile, analyze and distribute information that informs and supports statewide coordinated
22 planning;

23 “(g) Establish a uniform system of reporting and collecting statistical data from counties and
24 other agencies serving children and families;

25 “(h) Provide a process whereby the Department of Human Services, Oregon Health Authority,
26 Juvenile Crime Prevention Advisory Committee, Oregon Youth Authority, Department of Education,
27 Department of Community Colleges and Workforce Development, Employment Department, Housing
28 and Community Services Department and Oregon Business Development Department review all
29 findings from data collected by the local commissions through the local coordinated comprehensive
30 plans. The information gathered in this review shall be considered by those agencies in designing
31 future economic resources and services and in the coordination of services;

32 “(i) Make recommendations to the Commission for Child Care for the development of the state’s
33 biennial child care plan; and

34 “(j) Communicate information and policy advice on current research and proven practices of
35 effectiveness, from both inside and outside the state, including successful local strategies, to local
36 commissions, the Governor, the Legislative Assembly, state agencies and the public. The information
37 shall include progress in meeting intermediate outcome targets identified in the local coordinated
38 comprehensive plans.

39 “(4)(a) The state commission shall develop a review and approval process for local coordinated
40 comprehensive plans that includes:

41 “(A) A requirement that the local plan has been approved by the board or boards of county
42 commissioners;

43 “(B) Assurance that the local plan meets essential criteria and approval required by appropriate
44 entities and meets appropriate systems and planning connections; and

45 “(C) Review of state expenditures of resources allocated to the local commissions on children

1 and families.

2 “(b) The state commission shall develop the process under this subsection in consultation with
3 other entities involved in the review and approval process.

4 “(c) The state commission shall act on any waiver request from a local commission within 90
5 days after receipt of the request.

6 “(d) The state commission may disapprove a local plan for failure to address the elements de-
7 scribed in paragraph (a) of this subsection within 90 days after receipt of the request.

8 “(5) The state commission, in coordination with the local commissions on children and families,
9 shall:

10 “(a) Assist the local commissions in the development and implementation of performance meas-
11 ures and outcomes for evaluating services at the local level;

12 “(b) Monitor the progress in meeting intermediate outcome targets in the local coordinated
13 comprehensive plans;

14 “(c) In conjunction with the Department of Human Services and using the staff resources and
15 other resources of the state commission, educate, inform and provide technical assistance to local
16 commissions, including but not limited to technical assistance with:

17 “(A) Federal and state laws, regulations and rules, and changes therein, governing the use of
18 federal and state funds;

19 “(B) Facilitation;

20 “(C) Planning;

21 “(D) Policy development;

22 “(E) Proven practices of effectiveness;

23 “(F) Local systems development;

24 “(G) Community problem solving and mobilization; and

25 “(H) Other services, as appropriate;

26 “(d) Conduct research and disseminate information to local commissions on children and fami-
27 lies;

28 “(e) Negotiate federal waivers in consultation with the Department of Human Services; and

29 “(f) Develop a process for reviewing requests for waivers from requirements of the state com-
30 mission. Requests for waivers shall be granted or denied as a part of the approval process for a local
31 coordinated comprehensive plan. The state commission shall not grant a request for waiver that al-
32 lows funds to be used for any purpose other than early childhood prevention, intervention and
33 treatment programs.

34 “(6) The state commission shall employ a staff director who shall be responsible for hiring and
35 supervising any additional personnel necessary to assist the state commission in performing its du-
36 ties. The staff director shall be responsible for management functions of the state commission sub-
37 ject to policy direction by the state commission.

38 “(7) To the extent that federal funding is not jeopardized, the State Commission on Children and
39 Families shall enter into an interagency agreement with the Department of Human Services in
40 which they agree on a system to:

41 “(a) Distribute all Title XX Social Services Block Grant funds;

42 “(b) Ensure that federal and state requirements are met for federal funds administered by the
43 state commission; and

44 “(c) Carry out the necessary auditing, monitoring and information requirements for federal funds
45 distributed by the state commission.

1 “(8) In addition to the authority under subsection (5)(e) of this section, the state commission may
2 direct the Department of Human Services or the appropriate state department providing services for
3 children and families to negotiate federal waivers. If the Department of Human Services or any
4 other state agency does not pursue a federal waiver recommended by the state commission, the state
5 commission may ask the Governor to direct the Department of Human Services or other state
6 agency to apply for and negotiate the waiver.

7 “(9) If the Department of Human Services or any other state agency refuses to distribute state
8 or federal funds as requested by the state commission, the state commission may ask the Governor
9 to direct the Department of Human Services or other state agency to distribute the funds.

10 “(10) The programs shall be funded as fully as possible by Title XX of the federal Social Security
11 Act, consistent with the terms and conditions of the block grant program and the local coordinated
12 comprehensive plans that reflect community priorities established by the local planning process.

13 “(11) In conjunction with the Department of Human Services, the state commission, as soon as
14 possible, shall develop a plan to re-engineer and integrate the data processing systems related to
15 children’s programs with the objective of making management information more accessible. The
16 state commission shall make regular presentations to the Joint Legislative Committee on Informa-
17 tion Management and Technology on its progress in developing and implementing the plan.

18 “(12) Before each regular session of the Legislative Assembly, the state commission shall report,
19 to the Governor and to the appropriate joint interim committee as determined by the Speaker of the
20 House of Representatives and the President of the Senate, the following:

21 “(a) Any additional proposals contained in ‘A Positive Future for Oregon’s Children and
22 Families’ by the 1991-1992 Oregon Children’s Care Team Interim Task Force that should be under-
23 taken;

24 “(b) The status in all counties of local service systems related to the health and wellness of
25 children and the adequacy of financial resources to deliver services;

26 “(c) The progress in achieving desired outcomes, including but not limited to the statewide
27 guidelines set by the state commission under ORS 417.710 (1);

28 “(d) Barriers to achieving intermediate and high-level outcome targets as identified in local co-
29 ordinated comprehensive plans;

30 “(e) Proposed solutions to barriers identified under paragraph (d) of this subsection, including
31 proven, effective and innovative strategies; and

32 “(f) County and community mobilization to increase public awareness and involvement and
33 funding of community determined priorities.

34 “(13)(a) The state commission may solicit, accept and receive federal moneys or moneys or other
35 property from persons or corporations, public or private, for the purpose of carrying out the pro-
36 visions of ORS 417.705 to 417.801 [*and 419A.170*].

37 “(b) All federal moneys collected or received under paragraph (a) of this subsection shall be
38 accepted and transferred or expended by the state commission upon such terms and conditions as
39 are prescribed by the federal government.

40 “(c) All moneys and other property accepted by the state commission under this subsection shall
41 be transferred, expended or used upon such terms and conditions as are prescribed by the donor in
42 a manner consistent with applicable law.

43 “(14) The state commission shall:

44 “(a) Implement the recommendations of the Juvenile Crime Prevention Advisory Committee, as
45 approved by the Governor; and

1 “(b) In cooperation with other state and federal agencies, coordinate technical assistance efforts
2 on a statewide and county-specific basis relating to juvenile crime prevention programs and services.

3 “(15) The state commission may contract with local governments or other entities to administer
4 juvenile crime prevention programs and services. In accordance with the applicable provisions of
5 ORS chapter 183, the state commission may adopt rules necessary for the administration of juvenile
6 crime prevention programs and services.

7 “**SECTION 3. (1) There is created the Court Appointed Special Advocate Task Force**
8 **consisting of eight members appointed as follows:**

9 “(a) **The President of the Senate shall appoint one member from among members of the**
10 **Senate who shall cease being a member of the task force upon ceasing to be a member of**
11 **the Legislative Assembly.**

12 “(b) **The Speaker of the House of Representatives shall appoint one member from among**
13 **members of the House of Representatives who shall cease being a member of the task force**
14 **upon ceasing to be a member of the Legislative Assembly.**

15 “(c) **The Chief Justice of the Supreme Court shall appoint four members as follows:**

16 “(A) **Two members representing CASA Volunteer Programs; and**

17 “(B) **Two members from the Judicial Department with expertise in juvenile dependency**
18 **cases.**

19 “(d) **The Governor shall appoint two members from the Oregon State Bar with expertise**
20 **in juvenile justice cases involving court appointed special advocates.**

21 “(2) **The task force shall have its first meeting on or before the later of 30 days after**
22 **adjournment sine die of the 2011 regular session of the Seventy-sixth Legislative Assembly**
23 **or September 30, 2011.**

24 “(3) **The task force shall study and make recommendations on:**

25 “(a) **An appropriate entity to administer and supervise CASA Volunteer Programs in this**
26 **state, including but not limited to consideration of a new commission similar to the Public**
27 **Defense Services Commission established in ORS 151.213.**

28 “(b) **The structure and operation of the entity described in paragraph (a) of this sub-**
29 **section and of CASA Volunteer Programs in this state.**

30 “(c) **Standards and objectives for CASA Volunteer Programs in this state, taking into**
31 **consideration the standards of the National CASA Association.**

32 “(d) **Training of court appointed special advocates.**

33 “(e) **Sources of funding to support CASA Volunteer Programs statewide.**

34 “(4) **The task force shall prepare a detailed assessment of the costs to implement the**
35 **task force’s recommendations. The assessment must address both current and future needs**
36 **of CASA Volunteer Programs.**

37 “(5) **A majority of the members of the task force constitutes a quorum for the trans-**
38 **action of business.**

39 “(6) **Official action by the task force requires the approval of a majority of the members**
40 **of the task force.**

41 “(7) **The task force shall elect one of its members to serve as chairperson.**

42 “(8) **If there is a vacancy for any cause, the appointing authority shall make an appoint-**
43 **ment to become immediately effective.**

44 “(9) **The task force shall meet at times and places specified by the call of the chairperson**
45 **or of a majority of the members of the task force.**

1 revenues dedicated, continuously appropriated, appropriated or otherwise made available for
2 the purpose of administering and enforcing the duties, functions and powers of the State
3 Commission on Children and Families with respect to the creation, supervision and operation
4 of court appointed special advocates under ORS 419A.170 and CASA Volunteer Programs as
5 defined in ORS 419A.004 are transferred to and are available for expenditure by the Oregon
6 Department of Administrative Services as provided in ORS 419A.170 for the biennium begin-
7 ning July 1, 2011.

8 “(2) The expenditure classifications, if any, established by Acts authorizing or limiting
9 expenditures by the State Commission on Children and Families remain applicable to expen-
10 ditures by the department under this section.

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12 “ACTION, PROCEEDING, PROSECUTION

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14 “SECTION 7. The transfer of duties, functions and powers to the judicial branch of state
15 government by section 4 of this 2011 Act does not affect any action, proceeding or prose-
16 cution involving or with respect to the duties, functions and powers begun before and pend-
17 ing at the time of the transfer, except that the judicial branch of state government is
18 substituted for the State Commission on Children and Families in the action, proceeding or
19 prosecution.

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21 “LIABILITY, DUTY, OBLIGATION

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23 “SECTION 8. (1) Nothing in sections 3 to 10 of this 2011 Act or the amendments to ORS
24 417.735 and 419A.170 by sections 1 and 2 of this 2011 Act relieves a person of a liability, duty
25 or obligation accruing under or with respect to the duties, functions and powers transferred
26 by section 4 of this 2011 Act. The judicial branch of state government may undertake the
27 collection or enforcement of any such liability, duty or obligation.

28 “(2) The rights and obligations of the State Commission on Children and Families legally
29 incurred under contracts, leases and business transactions executed, entered into or begun
30 before the effective date of this 2011 Act are transferred to the judicial branch of state gov-
31 ernment. For the purpose of succession to these rights and obligations, the judicial branch
32 of state government is a continuation of the State Commission on Children and Families and
33 not a new authority.

34
35 “RULES

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37 “SECTION 9. Notwithstanding the transfer of duties, functions and powers by section 4
38 of this 2011 Act, the rules of the State Commission on Children and Families that pertain to
39 the creation, supervision and operation of court appointed special advocates under ORS
40 419A.170 and CASA Volunteer Programs as defined in ORS 419A.004 in effect on the effective
41 date of this 2011 Act continue in effect until superseded or repealed by rules of the judicial
42 branch of state government. References in rules of the State Commission on Children and
43 Families pertaining to the duties, functions and powers of the State Commission on Children
44 and Families, or to an officer or employee of the State Commission on Children and Families,
45 are considered to be references to the judicial branch of state government or to an officer

1 or employee of the judicial branch of state government.

2 **“SECTION 10.** Whenever, in any uncodified law or resolution of the Legislative Assembly
3 or in any rule, document, record or proceeding authorized by the Legislative Assembly per-
4 taining to the duties, functions and powers transferred by section 4 of this 2011 Act, refer-
5 ence is made to the State Commission on Children and Families, or to an officer or employee
6 of the State Commission on Children and Families, the reference is considered to be a ref-
7 erence to the judicial branch of state government or to an officer or employee of the judicial
8 branch of state government.

9
10 **“MISCELLANEOUS**

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12 **“SECTION 11.** The unit captions used in this 2011 Act are provided only for the conven-
13 ience of the reader and do not become part of the statutory law of this state or express any
14 legislative intent in the enactment of this 2011 Act.

15 **“SECTION 12.** Section 3 of this 2011 Act is repealed on June 30, 2012.

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17 **“EMERGENCY CLAUSE**

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19 **“SECTION 13.** This 2011 Act being necessary for the immediate preservation of the public
20 peace, health and safety, an emergency is declared to exist, and this 2011 Act takes effect
21 on its passage.”.