

HOUSE AMENDMENTS TO HOUSE BILL 4023

By COMMITTEE ON JUDICIARY

February 10

- 1 On page 1 of the printed bill, line 3, after “419B.116” insert “and 419B.368”.
- 2 In line 7, delete “petitioning” and insert “filing a motion” and delete “419B.365” and insert
3 “419B.366”.
- 4 In line 8, delete “419B.365” and insert “419B.366”.
- 5 In line 11, delete “419B.365” and insert “419B.366”.
- 6 In line 12, delete “419B.365” and insert “419B.366”.
- 7 In line 16, delete “petition” and insert “motion”.
- 8 In line 23, delete the second “and”.
- 9 In line 24, delete the period and insert “; and
- 10 “(g) The ward has access to court-appointed counsel under ORS 419B.195.”.
- 11 In line 25, after “include” insert a colon and begin a new paragraph and insert “(a)”.
- 12 In line 30, delete the period and insert “; and
- 13 “(b) The ward’s written acknowledgment that the ward cannot be placed in substitute care in
14 the legal custody of the Department of Human Services after reaching 18 years of age.”.
- 15 On page 3, line 3, delete “petition” and insert “file a motion”.
- 16 In line 4, delete “2” and insert “1”.
- 17 In line 28, delete “2” and insert “1”.
- 18 Delete lines 39 through 44 and insert:
- 19 “**SECTION 3.** ORS 419B.368 is amended to read:
- 20 “419B.368. (1) The court, on its own motion or upon the motion of a party and after such hearing
21 as the court may direct, may review, modify or vacate a guardianship order.
- 22 “(2) The court may modify a guardianship order if the court determines to do so would be in the
23 ward’s best interests.
- 24 “(3) The court may vacate a guardianship order, return the ward to the custody of a parent and
25 make any other order the court is authorized to make under this chapter if the court determines
26 that:
- 27 “(a) It is in the ward’s best interests to vacate the guardianship;
- 28 “(b) The conditions and circumstances giving rise to the establishment of the guardianship have
29 been ameliorated; and
- 30 “(c) The parent is presently able and willing to adequately care for the ward.
- 31 “(4) The court may vacate a guardianship order after determining that the guardian is no longer
32 willing or able to fulfill the duties of a guardian. Upon vacating a guardianship order under this
33 subsection, the court shall conduct a hearing:
- 34 “(a) Within 14 days, make written findings required in ORS 419B.185 (1)(a), (d) and (e) and make
35 any order directing disposition of the ward that the court is authorized to make under this chapter;

1 and

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

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

5 “(a) The ward’s emotional and developmental needs;

6 “(b) The ward’s need to maintain existing attachments and relationships and to form attach-
7 ments and relationships, including those with the birth family;

8 “(c) The ward’s health and safety; and

9 “(d) The ward’s wishes.

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

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

14 “(8) **If a guardianship is established under section 1 of this 2012 Act and ORS 419B.366,**
15 **the court shall conduct a court review not later than 60 days before the ward reaches 18**
16 **years of age. At the hearing, the court shall inform the ward that after reaching 18 years**
17 **of age the ward may not be placed in substitute care in the legal custody of the Department**
18 **of Human Services.**

19 “**SECTION 4. Section 1 of this 2012 Act and the amendments to ORS 419B.116 and**
20 **419B.368 by sections 2 and 3 of this 2012 Act apply to motions for limited participation and**
21 **motions for community guardianship filed on or after the effective date of this 2012 Act.**

22 “**SECTION 5. This 2012 Act being necessary for the immediate preservation of the public**
23 **peace, health and safety, an emergency is declared to exist, and this 2012 Act takes effect**
24 **on its passage.”**

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