

**TESTIMONY ON HB 3249
BEFORE THE HOUSE JUDICIARY COMMITTEE
MARCH 18, 2013**

**PRESENTED BY: MICHAEL LIVINGSTON
JUVENILE COURT PROGRAMS,
OFFICE OF THE STATE COURT ADMINISTRATOR**

I appear on behalf of the Oregon Judicial Department at the request of Representative Wayne Krieger to discuss what the bill does and how it changes current law.

HB 3249, SECTION 1

Under current law, the legal grandparents of a child committed to the legal custody of DHS and persons providing substitute care for a child committed to the legal custody of DHS (for example, foster parents) have: (a) a right to be notified by DHS of juvenile court hearings concerning the child, and (b) a right to be heard by the court at those hearings. DHS is required to notify legal grandparents of the hearings only if the grandparents request such notice in writing and provide a mailing address. But, DHS is required to give notice of the hearings to persons providing substitute care for a child, whether they have requested notice or not. SECTION 1 of the bill eliminates the requirement that legal grandparents request that they be notified of juvenile court hearings before DHS is obligated to provide such notice.

Under current law, DHS is required to make "diligent efforts" to identify, locate, and communicate with the relatives of a child in substitute care to determine whether they might provide substitute care for the child and/or provide other support for the child and the case plan. See ORS 419B.192; OAR 413-070-0060 to 413-070-0087. (Attached to this written testimony is a copy of a sample form letter that DHS caseworkers send to relatives to initiate that involvement.) SECTION 1 of the bill requires that DHS "exercise *due diligence* in efforts to identify and locate grandparents" for the purpose of notifying them of hearings concerning a child. To make it clear that SECTION 1 of the bill is not intended to establish a new legal standard for DHS efforts here that is different from the standard set out in ORS 419B.192, lines 33-36 on page 2 of the printed bill should be amended, as follows:

(7)(a) The Department of Human Services shall [*exercise due diligence in*] **make diligent** efforts to identify and locate grandparents of a child or ward and, when the department knows the identity of and has contact information for a grandparent, the department shall give the grandparent notice of a hearing concerning the child or ward.

SECTION 1 of the bill also requires that juvenile court orders and judgments entered after shelter hearings, jurisdictional hearings, dispositional hearings, and permanency hearings include findings by the court "whether the grandparent had notice of the hearing, attended the hearing and had an opportunity to be heard." Although current law does not require the juvenile court to make these findings, for approximately two years the juvenile court "Model Forms" developed for orders and judgments by the Judicial Department's Juvenile Court Improvement Program for use in these proceedings have included the following "findings" options for the court:

> Grandparent(s) - Notification and Participation:

- DHS **did** give the legal grandparent(s) notice of the hearing.
- DHS **did not** give the legal grandparent(s) notice of the hearing, because: the grandparent(s) did not ask to be notified other: _____
- The legal grandparent(s) **did not attend** the hearing.
- The legal grandparent(s) **attended** the hearing and had an opportunity to be heard.

HB 3249, SECTION 3

SECTION 3 of the bill does the following:

- (a) provides that, at any hearing concerning a child committed to the legal custody of DHS, a legal grandparent of the child may request that the court order visitation or other contact or communication between the grandparent and the child; and
- (b) provides that the juvenile court may grant the grandparent's request, in whole or in part, provided that clear and convincing evidence establishes, among other things, that the visitation, or other contact or communication will support the case plan, will not reduce the frequency or quality of the parent's visitation with the child, and will be in the child's best interests.

SECTION 3 should be amended to clarify that its provisions apply only in cases where the child is not in the physical custody of a parent and to include among the factors to be considered by the court whether the visitation, other contact or communication requested (or ordered) would unreasonably burden DHS resources.

HB 3249, SECTION 4

SECTION 4 of the bill amends ORS 109.309 to require that grandparents be served with the adoption petition and certain other documents in proceedings for the adoption of a minor child.

HB 3249, SECTION 5

Current law – ORS 109.332 – permits grandparents to seek a court order for regular, post-adoption visitation only in *stepparent* adoption proceedings. SECTION 5 of the bill amends ORS 109.332 to authorize such visitation requests in *all* adoptions. That change will likely result in an increase in the time judges and court staff spend on adoption cases. We have not yet determined the degree of fiscal impact that would have for the Judicial Department. In addition, SECTION 5, if enacted, may well have the effect of discouraging adoptive parents who are neither stepparents nor relatives of the child from proceeding with an adoption, thereby denying some children a chance for a permanent home.

ATTACHMENT: DHS Sample Letter to Relatives



Oregon

John A. Kitzhaber, M.D., Governor

Department of Human Services

Child Welfare

{Local branch office name}

{Street address}

{City, state, ZIP code}

Voice:

Fax:

TTY:

{Date}

{Relative name}

{Street address}

{City, State, ZIP code}

Dear {Relative name},

My name is {caseworker name}. I am a caseworker for Oregon's Department of Human Services (DHS). I am working with the child of the {case name} family. {child/children's name} is/are currently in foster care and you are being contacted because your name was given as a person that may be a relative. Relatives play important roles in the lives of all children, but especially for a child who has been removed from his or her parents. For a child in foster care, relatives can help by providing information such as names of other possible relatives or significant persons in the life of the child and medical or family history information. Relatives can also provide important connections to a child through contact, visitation and in some instances, a place for a child to live.

DHS places a high priority on searching for relatives of a child that has been placed in foster care, because the department gives placement preference to relatives. Children with strong family connections are often happier, better-adjusted and have a stronger sense of identity than those without. As a relative, we would like to know if you are willing to have yourself and home assessed as a possible place where {child/children's name} can live. Attached to this letter is a form that let DHS know what kind of support you want to give {child/children's name}. We would also like to know if you would consider having some type of contact such as writing letters, phone contact or visitation. I have attached a form that lets you indicate what kind of support you want to give {child/children's name}.

I am trying to gather as much information on as many possible relatives of the child as I can. It would be greatly appreciated if you will fill out the attached relative search information form listing any possible relatives you know. If you do not know the current contact information for a family member, any known information, such as the person's last known

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Location, phone number, etc. is helpful. Attempts will be made to contact other possible relatives you have listed to find out the kind of support they might be able to give the child and to gather family information.

Please call me at {caseworker phone number} if you have any questions. I am grateful for your time and interest in helping this child.

Sincerely,

{caseworker name}
Department of Human Services
{Local branch office name}
{Caseworkers email address}

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Relative Contact Information

Name of relative completing form: _____

Caseworker:
 {caseworker name} _____

Child's/children's name: {child/children's name} _____

Please provide names and addresses of other relatives who may have an interest in being a resource.

1. Relative information	Relationship to child: _____	<input type="checkbox"/> Maternal	<input type="checkbox"/> Paternal
Name: _____			
Street: _____			
City: _____		State: _____	ZIP code: _____ Country: _____
Home phone: ()		Work phone: ()	

2. Relative information	Relationship to child: _____	<input type="checkbox"/> Maternal	<input type="checkbox"/> Paternal
Name: _____			
Street: _____			
City: _____		State: _____	ZIP code: _____ Country: _____
Home phone: ()		Work phone: ()	

3. Relative information	Relationship to child: _____	<input type="checkbox"/> Maternal	<input type="checkbox"/> Paternal
Name: _____			
Street: _____			
City: _____		State: _____	ZIP code: _____ Country: _____
Home phone: ()		Work phone: ()	

4. Relative information	Relationship to child: _____	<input type="checkbox"/> Maternal	<input type="checkbox"/> Paternal
Name: _____			
Street: _____			
City: _____		State: _____	ZIP code: _____ Country: _____
Home phone: ()		Work phone: ()	

5. Relative information	Relationship to child: _____	<input type="checkbox"/> Maternal	<input type="checkbox"/> Paternal
Name: _____			
Street: _____			
City: _____		State: _____	ZIP code: _____ Country: _____
Home phone: ()		Work phone: ()	

Please return this form to the branch office as soon as possible.

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Support Preference Form

Re: {child/children's name}

Caseworker: {caseworker name}

Below is a range of different activities that will support a child in foster care. Check all the activities you might want to do.

- | | |
|---|---|
| <input type="checkbox"/> Financial assistance | <input type="checkbox"/> Phone calls |
| <input type="checkbox"/> Sending e-mail | <input type="checkbox"/> Providing family information |
| <input type="checkbox"/> Sending letters | <input type="checkbox"/> Providing gifts |
| <input type="checkbox"/> Sending pictures | <input type="checkbox"/> Help with transportation |
| <input type="checkbox"/> Recreational activities | <input type="checkbox"/> Sport activities |
| <input type="checkbox"/> Visiting at the DHS office | <input type="checkbox"/> Visiting in the community |
| <input type="checkbox"/> Visiting in your home | <input type="checkbox"/> Visiting in another home |
| <input type="checkbox"/> Other: _____ | |
| <input type="checkbox"/> Other: _____ | |
| <input type="checkbox"/> Other: _____ | |

Department of Human Services (DHS) is responsible for the well-being and safety of children in foster care. Any type of contact or potential contact with a child in foster care must be assessed by DHS to ensure the safety and well-being of children. The preferences you have checked above may or may not be possible based on specific case circumstances and the child's needs.

Please return this information to the child's caseworker at the address on the attached letter if you wish to discuss having contact with the child or helping with the child's circumstances.

(Your name)

(Date)

