

Youth, Rights & Justice

ATTORNEYS AT LAW

To: House Committee on Judiciary, 2013 Oregon Legislature

From: Mark McKechnie, Exec. Director, Youth, Rights & Justice

Date: March 18, 2013

Re: Support for HB 3249 With Recommended Amendments

Chair Barker and Members of the Committee:

Youth, Rights & Justice has long supported increased involvement by relatives in child welfare cases. We drafted and promoted SB 282 and SB 414 in 2007 to increase the involvement of relatives as foster care providers. SB 414 required DHS to make diligent efforts to locate relatives and consider them as foster placements. There is still work to be done to appropriately involve family members in these complex and difficult cases.

We support the changes to the juvenile code in HB 3249, with some modifications. We are more hesitant about the changes to the adoption statutes in Chapter 109, particularly as they effect adoptions that occur outside of the DHS system.

Juvenile Dependency Code Changes

Youth, Rights & Justice supports the provisions that require DHS to identify and locate the grandparents of a child or ward in DHS custody and that provide grandparents who attend a court hearing the opportunity to be heard. The additional requirement that the court make findings regarding notice to the grandparents and that the grandparents had an opportunity to be heard also serve as reminders to DHS to fulfill these obligations.

In addition, the legislation would give grandparents the ability to request visitation at a court hearing and requires the court to rule on the request. The list of criteria upon which the court should make its ruling appropriately reflects the complexity of these cases and the fact that a number of factors must be taken into account.

We understand that the Judicial Department has recommended amendments to the bill, including a limitation that the authority of the court to order grandparent visitation apply only when children are in substitute care. Further, OJD has recommended that this bill utilize the "diligent efforts" standard already used in the juvenile code, rather than introducing another standard of "due diligence." We support these changes and have a few amendments to request regarding technical issues to help clarify the meaning of the bill.

This change is simply to ***clarify that the existing law on intervention remains intact***. Intervention is not permitted at the termination stage.

Section 1, p. 2:

Add a comma after "proceeding" in line 44.

In line 45, after "419B.116", add a comma and the words "subject to the limitations on intervention in Section (1)(b) of this section."

This change is intended to allow grandparents to request visitation, but ***requires that they notify the other parties in advance of the hearing.*** Our only concern is avoiding undue delay and the need to set-over hearings in order for the court to consider grandparents' motions if they are able to make these requests without any notice to the other parties.

Section 3, p. 3:

In Line 8, after the word "may", delete "request at any hearing concerning the ward, that," and insert the word "move."

In line 9, after "the court", add "to"

In line 10, after "the ward," add ", after having given notice to the parties in the case."

Adoption Code Changes

We are still reviewing and considering the impact of the amendments to Chapter 109 in sections 4 and 5 of the bills. It appears that these changes have the potential to impact any adoption, not just those adoptions involving wards of the state. We believe that family law practice lawyers or private, non-profit agencies who handle other types of adoptions have the opportunity to provide input on these changes to help ensure that there are no unintended consequences in non-DHS adoptions.

We do have some concern that ***these changes have the potential to delay the selection and finalization of adoptions for wards of DHS and the potential to deter some prospective parents from adoption.*** For these reasons, we recommend these amendments to the bill, in addition to review by others more familiar with non-DHS adoption cases:

Section 4, p. 5: Delete lines 18-19

Section 5, p. 6: In lines 22-23, restore the deleted words "by a stepparent"

Again, we support the intent of the bill and the changes made to the juvenile code and believe that the amendments recommended above avoid potential confusion and potential unintended consequences that could result if the bill were passed as introduced.