

Enrolled
House Bill 3249

Sponsored by Representative KRIEGER, Senator KRUSE; Representatives BENTZ, BOONE, CAMERON, CONGER, ESQUIVEL, FREEMAN, GOMBERG, HANNA, HUFFMAN, JOHNSON, OLSON, PARRISH, SMITH, SPRENGER, THATCHER, THOMPSON, WEIDNER, WHISNANT, WHITSETT, Senators BAERTSCHIGER JR, FERRIOLI, GEORGE, GIROD, HANSELL, JOHNSON, KNOPP, OLSEN, ROBLAN, THOMSEN, WHITSETT, WINTERS

CHAPTER

AN ACT

Relating to grandparent rights; creating new provisions; and amending ORS 419B.875.

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

SECTION 1. ORS 419B.875 is amended to read:

419B.875. (1)(a) Parties to proceedings in the juvenile court under ORS 419B.100 and 419B.500 are:

- (A) The child or ward;
- (B) The parents or guardian of the child or ward;
- (C) A putative father of the child or ward who has demonstrated a direct and significant commitment to the child or ward by assuming, or attempting to assume, responsibilities normally associated with parenthood, including but not limited to:
 - (i) Residing with the child or ward;
 - (ii) Contributing to the financial support of the child or ward; or
 - (iii) Establishing psychological ties with the child or ward;
- (D) The state;
- (E) The juvenile department;
- (F) A court appointed special advocate, if appointed;
- (G) The Department of Human Services or other child-caring agency if the agency has temporary custody of the child or ward; and
- (H) The tribe in cases subject to the Indian Child Welfare Act if the tribe has intervened pursuant to the Indian Child Welfare Act.

(b) An intervenor who is granted intervention under ORS 419B.116 is a party to a proceeding under ORS 419B.100. An intervenor under this paragraph is not a party to a proceeding under ORS 419B.500.

(2) The rights of the parties include, but are not limited to:

- (a) The right to notice of the proceeding and copies of the petitions, answers, motions and other papers;
- (b) The right to appear with counsel and, except for intervenors under subsection (1)(b) of this section, to have counsel appointed as otherwise provided by law;
- (c) The right to call witnesses, cross-examine witnesses and participate in hearings;
- (d) The right of appeal; and

(e) The right to request a hearing.

(3) A putative father who satisfies the criteria set out in subsection (1)(a)(C) of this section shall be treated as a parent, as that term is used in this chapter and ORS chapters 419A and 419C, until the court confirms his paternity or finds that he is not the legal or biological father of the child or ward.

(4) If no appeal from the judgment or order is pending, a putative father whom a court of competent jurisdiction has found not to be the child or ward's legal or biological father or who has filed a petition for filiation that was dismissed is not a party under subsection (1) of this section.

(5)(a) A person granted rights of limited participation under ORS 419B.116 is not a party to a proceeding under ORS 419B.100 or 419B.500 but has only those rights specified in the order granting rights of limited participation.

(b) Persons moving for or granted rights of limited participation are not entitled to appointed counsel but may appear with retained counsel.

(6) If a foster parent, preadoptive parent or relative is currently providing care for a child or ward, the Department of Human Services shall give the foster parent, preadoptive parent or relative notice of a proceeding concerning the child or ward. A foster parent, preadoptive parent or relative providing care for a child or ward has the right to be heard at the proceeding. Except when allowed to intervene, the foster parent, preadoptive parent or relative providing care for the child or ward is not considered a party to the juvenile court proceeding solely because of notice and the right to be heard at the proceeding.

[(7) When a legal grandparent of a child or ward requests in writing and provides a mailing address, the Department of Human Services shall give the legal grandparent notice of a hearing concerning the child or ward and the court shall give the legal grandparent an opportunity to be heard. Except when allowed to intervene, a legal grandparent is not considered a party to the juvenile court proceeding solely because of notice and an opportunity to be heard.]

(7)(a) The Department of Human Services shall make diligent efforts to identify and obtain contact information for the grandparents of a child or ward committed to the department's custody. Except as provided in paragraph (b) of this subsection, 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. Upon a showing of good cause, the court may relieve the department of its responsibility to provide notice under this paragraph.

(b) If a grandparent of a child or ward is present at a hearing concerning the child or ward, and the court informs the grandparent of the date and time of a future hearing, the department is not required to give notice of the future hearing to the grandparent.

(c) If a grandparent is present at a hearing concerning a child or ward, the court shall give the grandparent an opportunity to be heard.

(d) The court's orders or judgments entered in proceedings under ORS 419B.185, 419B.310, 419B.325, 419B.449, 419B.476 and 419B.500 must include findings of the court as to whether the grandparent had notice of the hearing, attended the hearing and had an opportunity to be heard.

(e) Notwithstanding the provisions of this subsection, a grandparent is not a party to the juvenile court proceeding unless the grandparent has been granted rights of intervention under ORS 419B.116.

(f) As used in this subsection, "grandparent" has the meaning given that term in ORS 109.119.

(8) Interpreters for parties and persons granted rights of limited participation shall be appointed in the manner specified by ORS 45.275 and 45.285.

SECTION 2. Section 3 of this 2013 Act is added to and made a part of ORS chapter 419B.

SECTION 3. (1) The grandparent of a ward who has been placed in the legal custody of the Department of Human Services for care, placement and supervision pursuant to ORS 419B.337 and who is in substitute care as defined in ORS 419A.004 may, at any hearing con-

cerning the ward except for a hearing under ORS 419B.500, request that the court order visitation or other contact or communication between the grandparent and the ward, provided the grandparent has notified the department and parties in the proceeding of the grandparent's intent to make the request at the hearing at least 30 days before the date of the hearing.

(2) If the notice required under subsection (1) of this section has been given, the court may grant the grandparent's request in whole or in part if the court finds that:

(a) Prior to the establishment of wardship:

(A) An ongoing relationship existed between the grandparent and the ward that included regular visits or other contact or communication; or

(B) Despite the grandparent's efforts, no ongoing relationship existed between the grandparent and the ward due to circumstances beyond the grandparent's control;

(b) Ordering visitation or other contact or communication between the grandparent and the ward will support and not interfere with development and implementation of a permanent or concurrent permanent plan for the ward;

(c) Ordering visitation or other contact or communication between the grandparent and the ward will not reduce the frequency or the quality of a parent's visitation or other contact or communication with the ward;

(d) If the court determines consultation with the ward is appropriate, the ward has been consulted and agrees that the court should allow the grandparent's request in whole or in part;

(e) Ordering visitation or other contact or communication between the grandparent and the ward is in the ward's best interests; and

(f) Ordering visitation or other contact or communication between the grandparent and the ward would not unreasonably burden the resources of the Department of Human Services.

(3) Unless otherwise agreed by the Department of Human Services and the grandparent, the costs of transportation, lodging, food or other expenses required to implement visitation ordered by the court under this section shall be the responsibility of the grandparent.

(4) Notwithstanding ORS 419A.200, a grandparent may not appeal from or otherwise challenge on appeal an order or judgment of the court denying in whole or in part a request for visitation or other contact or communication made under this section.

(5) The court may receive testimony, reports or other material relating to the ward's mental, physical and social history and prognosis without regard to the competency or relevancy of the testimony, reports or other material under the rules of evidence for the purpose of making the findings required by subsection (2) of this section.

(6) As used in this section, "grandparent" has the meaning given that term in ORS 109.119.

SECTION 4. Section 3 of this 2013 Act and the amendments to ORS 419B.875 by section 1 of this 2013 Act apply to juvenile dependency proceedings pending or commenced on or after the effective date of this 2013 Act.

Passed by House June 5, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 11, 2013

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Peter Courtney, President of Senate

Received by Governor:

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Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State