

HOUSE AMENDMENTS TO HOUSE BILL 3249

By COMMITTEE ON JUDICIARY

April 15

1 On page 1 of the printed bill, line 2, delete “109.309, 109.332 and”.

2 Delete lines 5 through 25 and delete pages 2 through 6 and insert:

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

4 “419B.875. (1)(a) Parties to proceedings in the juvenile court under ORS 419B.100 and 419B.500

5 are:

6 “(A) The child or ward;

7 “(B) The parents or guardian of the child or ward;

8 “(C) A putative father of the child or ward who has demonstrated a direct and significant com-

9 mitment to the child or ward by assuming, or attempting to assume, responsibilities normally asso-

10 ciated with parenthood, including but not limited to:

11 “(i) Residing with the child or ward;

12 “(ii) Contributing to the financial support of the child or ward; or

13 “(iii) Establishing psychological ties with the child or ward;

14 “(D) The state;

15 “(E) The juvenile department;

16 “(F) A court appointed special advocate, if appointed;

17 “(G) The Department of Human Services or other child-caring agency if the agency has tempo-

18 rary custody of the child or ward; and

19 “(H) The tribe in cases subject to the Indian Child Welfare Act if the tribe has intervened pur-

20 suant to the Indian Child Welfare Act.

21 “(b) An intervenor who is granted intervention under ORS 419B.116 is a party to a proceeding

22 under ORS 419B.100. An intervenor under this paragraph is not a party to a proceeding under ORS

23 419B.500.

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

25 “(a) The right to notice of the proceeding and copies of the petitions, answers, motions and other

26 papers;

27 “(b) The right to appear with counsel and, except for intervenors under subsection (1)(b) of this

28 section, to have counsel appointed as otherwise provided by law;

29 “(c) The right to call witnesses, cross-examine witnesses and participate in hearings;

30 “(d) The right of appeal; and

31 “(e) The right to request a hearing.

32 “(3) A putative father who satisfies the criteria set out in subsection (1)(a)(C) of this section

33 shall be treated as a parent, as that term is used in this chapter and ORS chapters 419A and 419C,

34 until the court confirms his paternity or finds that he is not the legal or biological father of the

35 child or ward.

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

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

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

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

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

21 “(7)(a) **The Department of Human Services shall make diligent efforts to identify and**
22 **obtain contact information for the grandparents of a child or ward committed to the**
23 **department’s custody. Except as provided in paragraph (b) of this subsection, when the de-**
24 **partment knows the identity of and has contact information for a grandparent, the depart-**
25 **ment shall give the grandparent notice of a hearing concerning the child or ward. Upon a**
26 **showing of good cause, the court may relieve the department of its responsibility to provide**
27 **notice under this paragraph.**

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

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

33 “(d) **The court’s orders or judgments entered in proceedings under ORS 419B.185,**
34 **419B.310, 419B.325, 419B.449, 419B.476 and 419B.500 must include findings of the court as to**
35 **whether the grandparent had notice of the hearing, attended the hearing and had an oppor-**
36 **tunity to be heard.**

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

40 “(f) **As used in this subsection, ‘grandparent’ has the meaning given that term in ORS**
41 **109.119.**

42 “(8) **Interpreters for parties and persons granted rights of limited participation shall be ap-**
43 **pointed in the manner specified by ORS 45.275 and 45.285.**

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

45 “**SECTION 3. (1) The grandparent of a ward who has been placed in the legal custody of**

1 the Department of Human Services for care, placement and supervision pursuant to ORS
2 419B.337 and who is in substitute care as defined in ORS 419A.004 may, at any hearing con-
3 cerning the ward except for a hearing under ORS 419B.500, request that the court order
4 visitation or other contact or communication between the grandparent and the ward, pro-
5 vided the grandparent has notified the department and parties in the proceeding of the
6 grandparent's intent to make the request at the hearing at least 30 days before the date of
7 the hearing.

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

10 “(a) Prior to the establishment of wardship:

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

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

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

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

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

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

26 “(f) Ordering visitation or other contact or communication between the grandparent and
27 the ward would not unreasonably burden the resources of the Department of Human Ser-
28 vices.

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

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

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

39 “(6) As used in this section, ‘grandparent’ has the meaning given that term in ORS
40 109.119.

41 “SECTION 4. Section 3 of this 2013 Act and the amendments to ORS 419B.875 by section
42 1 of this 2013 Act apply to juvenile dependency proceedings pending or commenced on or after
43 the effective date of this 2013 Act.”.