

Youth, Rights & Justice

ATTORNEYS AT LAW

To: Senate Committee on Human Services and Early Childhood, 2015 Oregon Legislature

From: Mark McKechnie, Executive Director, Youth, Rights & Justice

Date: April 7, 2015

RE: **Support for SB 741**

Chair Gelser and Members of the Committee:

Youth, Rights & Justice was founded 40 years ago and has been dedicated to providing legal representation and advocacy to over 50,000 children and youth involved in the juvenile court system, including children in foster care and youth in the juvenile justice system. In previous sessions, YRJ has advocated for legislation that requires DHS to make “diligent efforts” to place children in foster care with relatives, legislation that treats relative and non-relative foster parents equally in terms of receiving foster care payments, and legislation that preserves school stability for children in foster care when it is in their best interests. All of these have been enacted by overwhelming majorities of the Oregon Legislature.

YRJ has been steadfast in its advocacy that *decision-making for a child should be guided by the child's best interests* and an understanding of the child's current and future needs. *SB 741 is about making the best choice for each child, period.* We should consider all good options and choose the best – in every case.

Section 5 of SB 741

Research tells us that relatives often make the best care givers when the parents are unable or unwilling to raise their child. This is why YRJ and many others worked to pass legislation in 2007 to require DHS to make “diligent efforts” to place children with relative foster parents, such as aunts, uncles and grandparents. But research cannot tell us whether a particular relative is always the best parent to raise a particular child. Every circumstance is different.

While blood and legal relationships are important, it does not always make sense to select a relative who has not met a child or who has no emotional bond with the child over a foster parent who may have cared for a child for much of the child's life. **Nearly half of children adopted from foster care each year are under the age of five, and many of these children grow up knowing no other parent than their foster parents.**

There really is no reason to reduce the choices and the chances we can give a child to grow up in the best home possible. That is why most states consider both relatives and non-relative caregivers who have a healthy relationship with a child to be promising candidates to adopt when a child cannot go home to a parent. According to the Children's Bureau, 36 states do not give preference to either a relative or a non-relative long-term caregiver over the other when it comes to selecting an adoptive home for a child. Most will consider good candidates of either type. It only makes sense. Why eliminate good options when it comes to choosing the best for a child?

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Oregon used to do this, too, until DHS changed its adoption rules in 2010. Oregon should return to a system that considers both blood and legal relatives, as well as caring foster parents who have developed long-term emotional bonds with a child, for adoption. ***We should consider all the good options and choose the best – in every case.***

Sections 6-8 of SB 741

Authority to make decisions about children's lives is largely granted to DHS when a child is placed in its custody and when the child is made a ward of the court. Much of the court's authority had been specifically granted through federal and state legislation. Unless the authority to make or review decisions by DHS is granted to the court, decision making is often reserved for DHS. This includes the selection of foster care placements. However, ORS 419B.349 allows the court to review the child's current placement and order another type of placement if it is in the ***child's best interests***.

SB 741 would modestly expand this authority to review long-term foster placements. **While it may not happen often, the court should have the additional authority to order DHS to return a child to a long term foster home if DHS has removed the child and placed him or her in another foster home and the court determines that the move was not in the child's best interests.**

Disruption of a long-term foster placement can be a critical and traumatic event that can alter the course of a child's life dramatically. In these few but important instances, **it is reasonable to grant the court, as a *neutral-fact finder*, the opportunity to review the situation and the authority to order a remedy if the court finds that the move was not in the child's best interest.**

Again, we do not believe that this provision will be needed frequently. In many cases, such moves are planned in advance, with the support and agreement of the court and other parties. In other cases, there may be an allegation of abuse or neglect that justifies the removal of a child temporarily or permanently. In such cases, we would expect the court to find the agency's actions to be in the child's best interests. In many of these cases, the additional hearing requirement can be waived upon agreement of the parties. And adding this authority of the court to review these decisions will help *ensure that good decisions are made in the first place.*

SB741 promotes the best planning and decision making for every single child entrusted to the care of DHS, the Juvenile Court and the people of Oregon. We urge you to pass SB 741.