

House Bill 3014

Sponsored by Representatives KRIEGER, WILLIAMSON, Senator KRUSE; Representatives BARTON, BENTZ, BOONE, ESQUIVEL, GOMBERG, HAYDEN, HEARD, MCKEOWN, MCLANE, NEARMAN, PARRISH, POST, SMITH, STARK, WEIDNER, WHISNANT, Senator BAERTSCHIGER JR

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Changes definition of "grandparent" in laws pertaining to notice to grandparents of juvenile dependency hearings regarding grandchildren, and that authorize grandparents to request visitation or other contact or communication with grandchildren when grandchildren are in legal custody of Department of Human Services.

A BILL FOR AN ACT

1
2 Relating to grandparent rights; creating new provisions; and amending ORS 419B.875 and 419B.876.

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

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

5 419B.875. (1)(a) Parties to proceedings in the juvenile court under ORS 419B.100 and 419B.500
6 are:

7 (A) The child or ward;

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

9 (C) A putative father of the child or ward who has demonstrated a direct and significant com-
10 mitment to the child or ward by assuming, or attempting to assume, responsibilities normally asso-
11 ciated with parenthood, including but not limited to:

12 (i) Residing with the child or ward;

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

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

15 (D) The state;

16 (E) The juvenile department;

17 (F) A court appointed special advocate, if appointed;

18 (G) The Department of Human Services or other child-caring agency if the agency has temporary
19 custody of the child or ward; and

20 (H) The tribe in cases subject to the Indian Child Welfare Act if the tribe has intervened pur-
21 suant to the Indian Child Welfare Act.

22 (b) An intervenor who is granted intervention under ORS 419B.116 is a party to a proceeding
23 under ORS 419B.100. An intervenor under this paragraph is not a party to a proceeding under ORS
24 419B.500.

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

26 (a) The right to notice of the proceeding and copies of the petitions, answers, motions and other
27 papers;

28 (b) The right to appear with counsel and, except for intervenors under subsection (1)(b) of this
29 section, to have counsel appointed as otherwise provided by law;

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (c) The right to call witnesses, cross-examine witnesses and participate in hearings;
- 2 (d) The right of appeal; and
- 3 (e) The right to request a hearing.

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

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

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

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

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

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

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

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

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

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

40 (f) As used in this subsection, “grandparent” *[has the meaning given that term in ORS 109.119]*
 41 **means the legal parent of the child’s or ward’s legal parent, regardless of whether the par-**
 42 **ental rights of the child’s or ward’s legal parent have been terminated under ORS 419B.500**
 43 **to 419B.524.**

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

SECTION 2. ORS 419B.876 is amended to read:

419B.876. (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 concerning 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]* **means the legal parent of the child's or ward's legal parent, regardless of whether the parental rights of the child's or ward's legal parent have been terminated under ORS 419B.500 to 419B.524.**

SECTION 3. The amendments to ORS 419B.875 and 419B.876 by sections 1 and 2 of this 2015 Act apply to juvenile dependency proceedings pending or commenced on or after the effective date of this 2015 Act.