

Senate Bill 403

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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**.

Limits consideration of "relatives" for purposes of placing child in custody of Department of Human Services to exclude certain putative fathers and paternal relatives.

A BILL FOR AN ACT

1
2 Relating to placement of children in the custody of the Department of Human Services; creating new
3 provisions; and amending ORS 419B.192.

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

5 **SECTION 1.** ORS 419B.192 is amended to read:

6 419B.192. (1)(a) **Subject to paragraph (b) of this subsection**, if the court finds that a child or
7 ward is in need of placement or continuation in substitute care, there shall be a preference given
8 to placement of the child or ward with relatives and persons who have a caregiver relationship with
9 the child or ward as defined in ORS 419B.116. The Department of Human Services shall make dili-
10 gent efforts to place the child or ward with such persons and shall report to the court the efforts
11 made by the department to effectuate that placement.

12 **(b) Putative fathers and paternal relatives may not be considered to be relatives for**
13 **purposes of this section unless:**

14 **(A) Paternity has been established under ORS 109.070; or**

15 **(B) The department knows, or by the exercise of reasonable diligence should have known,**
16 **that:**

17 **(i) The child or ward resided with the putative father or a paternal relative at any time**
18 **during the 60 days immediately preceding the date on which the placement decision is made**
19 **or, if the child or ward is less than 60 days old at the time of the placement decision, at any**
20 **time since the child's or ward's birth;**

21 **(ii) The putative father or paternal relative has consistently contributed or tried to con-**
22 **tribute to the support of the child or ward during the year immediately preceding the date**
23 **of the placement decision or, if the child or ward is less than one year old at the time of the**
24 **placement decision, during the period since the child's or ward's birth; or**

25 **(iii) Notice of the initiation of filiation proceedings as required under ORS 109.225 was on**
26 **file with the Center for Health Statistics of the Oregon Health Authority at the time the**
27 **department makes the placement decision.**

28 (2) If a child or ward in need of placement or continuation in substitute care has a sibling also
29 in need of placement or continuation in substitute care, the department shall make diligent efforts
30 to place the siblings together and shall report to the court the efforts made by the department to

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 carry out the placement, unless the court finds that placement of the siblings together is not in the
2 best interests of the child or the ward or the child's or the ward's sibling.

3 (3) In attempting to place the child or ward pursuant to subsections (1) and (2) of this section,
4 the department shall consider, but not be limited to considering, the following:

5 (a) The ability of the person being considered to provide safety for the child or ward, including
6 a willingness to cooperate with any restrictions placed on contact between the child or ward and
7 others, and to prevent anyone from influencing the child or ward in regard to the allegations of the
8 case;

9 (b) The ability of the person being considered to support the efforts of the department to im-
10 plement the permanent plan for the child or ward;

11 (c) The ability of the person being considered to meet the child or ward's physical, emotional
12 and educational needs, including the child or ward's need to continue in the same school or educa-
13 tional placement;

14 (d) Which person has the closest existing personal relationship with the child or ward if more
15 than one person requests to have the child or ward placed with them pursuant to this section; and

16 (e) The ability of the person being considered to provide a placement for the child's or ward's
17 sibling who is also in need of placement or continuation in substitute care.

18 (4) When the court is required to make findings regarding the department's diligent efforts to
19 place a child or ward with relatives or persons with a caregiver relationship under subsection (1)
20 of this section, and the court determines that, contrary to the placement decision of the department,
21 placement with a relative is not in the best interest of the child or ward under ORS 419B.349, the
22 court shall make written findings setting forth the reasons why the court finds that placement of the
23 child or ward with an available relative is not in the best interest of the child.

24 (5) Notwithstanding subsections (1) to (3) of this section, in cases where the Indian Child Wel-
25 fare Act applies, the placement preferences of the Indian Child Welfare Act shall be followed.

26 **SECTION 2. The amendments to ORS 419B.192 by section 1 of this 2015 Act apply to**
27 **placement decisions made by the Department of Human Services on or after the effective**
28 **date of this 2015 Act.**

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