

Senate Bill 576

Sponsored by Senator BOQUIST (at the request of Richard Sharp)

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**.

Makes case planning and placement decisions for wards in custody of Department of Human Services responsibility of case planning committee convened by department and composed of relevant parties and stakeholders with interest in ward's welfare, case planning and placement.

Requires case planning and placement determinations and decisions of case planning committee to be made by majority vote of committee members.

A BILL FOR AN ACT

1
2 Relating to the placement of wards in the custody of the Department of Human Services; creating
3 new provisions; and amending ORS 419A.116, 419A.122, 419B.337, 419B.343, 419B.449, 419B.476
4 and 419B.881.

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

6 **SECTION 1.** ORS 419B.343 is amended to read:

7 419B.343. (1) [*To ensure effective planning for wards, the Department of Human Services shall take*
8 *into consideration recommendations and information provided by the committing court before placement*
9 *in any facility. The department shall ensure that the case planning in any case:]* **In making a case**
10 **plan and a placement decision for a ward in the legal custody of the Department of Human**
11 **Services, the department shall convene a case planning committee composed of the following:**

12 (a) **A representative of the local citizen review board that made written findings and**
13 **recommendations with respect to the ward under ORS 419A.116;**

14 (b) **The court appointed special advocate appointed for the ward under ORS 419B.112;**

15 (c) **Any counselor, therapist and attorney appointed to represent or provide treatment**
16 **for the ward while in the department's custody;**

17 (d) **The parents or guardians of the ward;**

18 (e) **The caseworker for the ward or other representative of the department; and**

19 (f) **Other relevant parties or stakeholders with an interest in the ward's welfare, case**
20 **planning and placement.**

21 (2) **The case plan and a placement decision for a ward shall be made by majority vote of**
22 **the members of the case planning committee convened under subsection (1) of this section**
23 **and shall take into consideration the recommendations and information provided by the**
24 **committing court.**

25 (3) **The case planning in any case must:**

26 (a) [*For the*] **Take into account the possibility of** reunification of the family **that** bears a ra-
27 tional relationship to the jurisdictional findings that brought the ward within the court's jurisdiction
28 under ORS 419B.100;

29 (b) [*Incorporates*] **Incorporate** the perspective of the ward and the family and, whenever possi-
30 ble, [*allows*] **allow** the family to assist in designing its own service programs, based on an assess-

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 ment of the family's needs and the family's solutions and resources for change; and

2 (c) [Is] **Be** integrated with other agencies in cooperation with the caseworkers.

3 [(2)] (4) Except in cases when the plan is something other than to reunify the family, the [*de-*
4 *partment*] **case planning committee convened under subsection (1) of this section** shall include
5 in the case plan:

6 (a) Appropriate services to allow the parent the opportunity to adjust the parent's circum-
7 stances, conduct or conditions to make it possible for the ward to safely return home within a rea-
8 sonable time; and

9 (b) A concurrent permanent plan to be implemented if the parent is unable or unwilling to adjust
10 the parent's circumstances, conduct or conditions in such a way as to make it possible for the ward
11 to safely return home within a reasonable time.

12 [(3)] (5) Any time after a ward attains 14 years of age, if the [*department*] **case planning com-**
13 **mittee** determines that it is appropriate, but in no case later than the date the ward attains 16
14 years of age, the [*department*] **case planning committee** shall ensure that the case planning in the
15 case addresses the ward's needs and goals for a successful transition to independent living, including
16 needs and goals related to housing, physical and mental health, education, employment, community
17 connections and supportive relationships.

18 [(4)] (6) The case plan for a ward in substitute care must include the health and education re-
19 cords of the ward, including the most recent information available regarding:

20 (a) The names and addresses of the ward's health and education providers;

21 (b) The grade level of the ward's academic performance;

22 (c) The ward's school record;

23 (d) Whether the ward's placement takes into account proximity to the school in which the ward
24 is enrolled at the time of placement;

25 (e) The ward's immunizations;

26 (f) Any known medical problems of the ward;

27 (g) The ward's medications; and

28 (h) Any other relevant health and education information concerning the ward that the depart-
29 ment determines is appropriate to include in the records.

30 **SECTION 2.** ORS 419B.449 is amended to read:

31 419B.449. (1) Upon receiving any report required by ORS 419B.440, the court may hold a hearing
32 to review the child or ward's condition and circumstances and to determine if the court should
33 continue jurisdiction and wardship or order modifications in the care, placement and supervision of
34 the child or ward. The court shall hold a hearing:

35 (a) In all cases under ORS 419B.440 (2)(b) when the parents' rights have been terminated;

36 (b) If requested by the child or ward, the attorney for the child or ward, if any, the parents or
37 the public or private agency having guardianship or legal custody of the child or ward within 30
38 days of receipt of the notice provided in ORS 419B.452;

39 (c) Not later than six months after receipt of a report made under ORS 419B.440 (1) on a ward
40 who is in the legal custody of the Department of Human Services pursuant to ORS 419B.337 but who
41 is placed in the physical custody of a parent or a person who was appointed the ward's legal
42 guardian prior to placement of the ward in the legal custody of the department; or

43 (d) Within 30 days after receipt of a report made under ORS 419B.440 (2)(c).

44 (2) The court shall conduct a hearing provided in subsection (1) of this section in the manner
45 provided in ORS 419B.310, except that the court may receive testimony and reports as provided in

1 ORS 419B.325. At the conclusion of the hearing, the court shall enter findings of fact.

2 (3) If the child or ward is in substitute care and the decision of the court is to continue the child
3 or ward in substitute care, the findings of the court shall specifically state:

4 (a)(A) Why continued care is necessary as opposed to returning the child or ward home or tak-
5 ing prompt action to secure another permanent placement; and

6 (B) The expected timetable for return or other permanent placement.

7 (b) Whether the agency having guardianship or legal custody of the child or ward has made
8 diligent efforts to place the child or ward pursuant to ORS 419B.192.

9 (c) The number of placements made, schools attended, face-to-face contacts with the assigned
10 case worker and visits had with parents or siblings since the child or ward has been in the
11 guardianship or legal custody of the agency and whether the frequency of each of these is in the
12 best interests of the child or ward.

13 (d) For a child or ward 14 years of age or older, whether the child or ward is progressing ade-
14 quately toward graduation from high school and, if not, the efforts that have been made by the
15 agency having custody or guardianship to assist the child or ward to graduate.

16 (4) If the ward is in the legal custody of the department but has been placed in the physical
17 custody of the parent or a person who was appointed the ward's legal guardian prior to placement
18 of the ward in the legal custody of the department, and the decision is to continue the ward in the
19 legal custody of the department and the physical custody of the parent or guardian, the findings of
20 the court shall specifically state:

21 (a) Why it is necessary and in the best interests of the ward to continue the ward in the legal
22 custody of the department; and

23 (b) The expected timetable for dismissal of the department's legal custody of the ward and ter-
24 mination of the wardship.

25 (5) In making the findings under subsection (2) of this section, the court shall consider the ef-
26 forts made to develop the concurrent case plan **by the case planning committee convened under**
27 **ORS 419B.343**, including, but not limited to, identification of appropriate permanent placement
28 options for the child or ward both inside and outside this state and, if adoption is the concurrent
29 case plan, identification and selection of a suitable adoptive placement for the child or ward.

30 (6) In addition to findings of fact required by subsection (2) of this section, the court may order
31 the *[Department of Human Services]* **case planning committee convened under ORS 419B.343** to
32 consider additional information in developing the case plan or concurrent case plan.

33 (7) Any final decision of the court made pursuant to the hearing provided in subsection (1) of
34 this section is appealable under ORS 419A.200.

35 **SECTION 3.** ORS 419B.337 is amended to read:

36 419B.337. (1) When the court determines it would be in the best interest and for the welfare of
37 a ward, the court may place the ward in the legal custody of the Department of Human Services for
38 care, placement and supervision **in accordance with the determinations and decisions of a case**
39 **planning committee convened in accordance with ORS 419B.343**. When the court enters an order
40 removing a ward from the ward's home or an order continuing care, the court shall make a written
41 finding as to whether:

42 (a) Removal of the ward from the ward's home or continuation of care is in the best interest and
43 for the welfare of the ward;

44 (b) Reasonable efforts, considering the circumstances of the ward and parent, have been made
45 to prevent or eliminate the need for removal of the ward from the home or to make it possible for

1 the ward to safely return home. In making this finding, the court shall consider the ward's health
2 and safety the paramount concerns; and

3 (c) Diligent efforts have been made to place the ward pursuant to ORS 419B.192.

4 (2) The court may specify the particular type of care, supervision or services to be provided by
5 the Department of Human Services to wards placed in the department's custody and to the parents
6 or guardians of the wards, but the actual planning and provision of such care, supervision or ser-
7 vices is the responsibility of the department **and the case planning committee**. The department
8 may place the ward in a child care center authorized to accept the ward.

9 (3) The court may make an order regarding visitation by the ward's parents or siblings. The
10 [Department of Human Services] **case planning committee** is responsible for developing and imple-
11 menting a visitation plan consistent with the court's order.

12 (4) Uniform commitment blanks, in a form approved by the Director of Human Services, shall
13 be used by all courts for placing wards in the legal custody of the Department of Human Services.

14 (5) If the ward has been placed in the custody of the Department of Human Services, the court
15 shall make no commitment directly to any residential facility, but shall cause the ward to be deliv-
16 ered into the custody of the department at the time and place fixed by rules of the department. A
17 ward so committed may not be placed in a Department of Corrections institution.

18 (6) Commitment of a ward to the Department of Human Services continues until dismissed by
19 the court or until the ward becomes 21 years of age.

20 (7) A court may dismiss commitment of a ward to the Department of Human Services if:

21 (a)(A) Dismissal is appropriate because the ward has been safely reunited with a parent or be-
22 cause a safe alternative to reunification has been implemented for the ward; and

23 (B) The ward is at least 14 years of age but less than 21 years of age and the court finds that:

24 (i) The [department] **case planning committee** has provided case planning pursuant to ORS
25 419B.343 that addresses the ward's needs and goals for a successful transition to independent living,
26 including needs and goals relating to housing, physical and mental health, education, employment,
27 community connections and supportive relationships;

28 (ii) The department has provided appropriate services pursuant to the case plan;

29 (iii) The [department] **case planning committee** has involved the ward in the development of
30 the case plan and in the provision of appropriate services; and

31 (iv) The ward has safe and stable housing and is unlikely to become homeless as a result of
32 dismissal of commitment of the ward to the department; or

33 (b) The ward has been committed to the custody of the Oregon Youth Authority.

34 **SECTION 4.** ORS 419B.476 is amended to read:

35 419B.476. (1) A permanency hearing shall be conducted in the manner provided in ORS 418.312,
36 419B.310, 419B.812 to 419B.839 and 419B.908, except that the court may receive testimony and re-
37 ports as provided in ORS 419B.325.

38 (2) At a permanency hearing the court shall:

39 (a) If the case plan at the time of the hearing is to reunify the family, determine whether the
40 Department of Human Services has made reasonable efforts or, if the Indian Child Welfare Act ap-
41 plies, active efforts to make it possible for the ward to safely return home and whether the parent
42 has made sufficient progress to make it possible for the ward to safely return home. In making its
43 determination, the court shall consider the ward's health and safety the paramount concerns.

44 (b) If the case plan at the time of the hearing is something other than to reunify the family,
45 determine whether the [department] **case planning committee convened under ORS 419B.343** has

1 made reasonable efforts to place the ward in a timely manner in accordance with the plan, including,
2 if appropriate, reasonable efforts to place the ward through an interstate placement, and to complete
3 the steps necessary to finalize the permanent placement.

4 (c) If the case plan at the time of the hearing is something other than to reunify the family,
5 determine whether the [department] **case planning committee** has considered permanent placement
6 options for the ward, including, if appropriate, whether the [department] **case planning committee**
7 has considered both permanent in-state placement options and permanent interstate placement
8 options for the ward.

9 (d) Make the findings of fact under ORS 419B.449 (2).

10 (3)(a) In the circumstances described in paragraph (b) of this subsection, in addition to making
11 the determination required by subsection (2)(a) or (b) of this section, at a permanency hearing the
12 court shall review the comprehensive plan for the ward's transition to independent living and de-
13 termine and make findings as to:

14 (A) Whether the plan is adequate to ensure the ward's successful transition to independent liv-
15 ing;

16 (B) Whether the department has offered appropriate services pursuant to the plan; and

17 (C) Whether the [department] **case planning committee** has involved the ward in the develop-
18 ment of the plan.

19 (b) The requirements of paragraph (a) of this subsection apply when:

20 (A) The ward is 16 years of age or older; or

21 (B) The ward is 14 years of age or older and there is a comprehensive plan for the ward's
22 transition to independent living.

23 (4) At a permanency hearing the court may:

24 (a) If the case plan changed during the period since the last review by a local citizen review
25 board or court hearing and a plan to reunify the family was in effect for any part of that period,
26 determine whether the department has made reasonable efforts or, if the Indian Child Welfare Act
27 applies, active efforts to make it possible for the ward to safely return home. In making its deter-
28 mination, the court shall consider the ward's health and safety the paramount concerns;

29 (b) If the case plan changed during the period since the last review by a local citizen review
30 board or court hearing and a plan other than to reunify the family was in effect for any part of that
31 period, determine whether the [department] **case planning committee** has made reasonable efforts
32 to place the ward in a timely manner in accordance with the plan, including, if appropriate, place-
33 ment of the ward through an interstate placement, and to complete the steps necessary to finalize
34 the permanent placement;

35 (c) If the court determines that further efforts will make it possible for the ward to safely return
36 home within a reasonable time, order that the parents participate in specific services for a specific
37 period of time and make specific progress within that period of time;

38 (d) Determine the adequacy and compliance with the case plan and the case progress report;

39 (e) Review the efforts made by the [department] **case planning committee** to develop the con-
40 current permanent plan, including but not limited to identification of appropriate permanent in-state
41 placement options and appropriate permanent interstate placement options and, if adoption is the
42 concurrent case plan, identification and selection of a suitable adoptive placement for the ward;

43 (f) Order the [department] **case planning committee** to develop or expand the case plan or
44 concurrent permanent plan and provide a case progress report to the court and other parties within
45 10 days after the permanency hearing;

1 (g) Order the [*department or agency*] **case planning committee** to modify the care, placement
2 and supervision of the ward;

3 (h) Order the local citizen review board to review the status of the ward prior to the next court
4 hearing; or

5 (i) Set another court hearing at a later date.

6 (5) The court shall enter an order within 20 days after the permanency hearing. In addition to
7 any determinations or orders the court may make under subsection (4) of this section, the order
8 shall include:

9 (a) The court's determination required under subsections (2) and (3) of this section, including a
10 brief description of the efforts the [*department*] **case planning committee** has made with regard to
11 the case plan in effect at the time of the permanency hearing;

12 (b) The court's determination of the permanency plan for the ward that includes whether and,
13 if applicable, when:

14 (A) The ward will be returned to the parent;

15 (B) The ward will be placed for adoption, and a petition for termination of parental rights will
16 be filed;

17 (C) The ward will be referred for establishment of legal guardianship; or

18 (D) The ward will be placed in another planned permanent living arrangement;

19 (c) If the court determines that the permanency plan for the ward should be to return home
20 because further efforts will make it possible for the ward to safely return home within a reasonable
21 time, the court's determination of the services in which the parents are required to participate, the
22 progress the parents are required to make and the period of time within which the specified progress
23 must be made;

24 (d) If the court determines that the permanency plan for the ward should be adoption, the
25 court's determination of whether one of the circumstances in ORS 419B.498 (2) is applicable;

26 (e) If the court determines that the permanency plan for the ward should be establishment of a
27 legal guardianship or placement with a fit and willing relative, the court's determination of why
28 neither placement with parents nor adoption is appropriate;

29 (f) If the court determines that the permanency plan for the ward should be a planned permanent
30 living arrangement, the court's determination of a compelling reason, that must be documented by
31 the [*department*] **case planning committee**, why it would not be in the best interests of the ward
32 to be returned home, placed for adoption, placed with a legal guardian or placed with a fit and
33 willing relative;

34 (g) If the current placement is not expected to be permanent, the court's projected timetable for
35 return home or for placement in another planned permanent living arrangement. If the timetable set
36 forth by the court is not met, the [*department*] **case planning committee** shall promptly notify the
37 court and parties;

38 (h) If an Indian child is involved, the tribal affiliation of the ward; and

39 (i) If the ward has been placed in an interstate placement, the court's determination of whether
40 the interstate placement continues to be appropriate and in the best interests of the ward.

41 (6) If an Indian child is involved, the court shall follow the placement preference established by
42 the Indian Child Welfare Act.

43 (7) Any final decision of the court made pursuant to the permanency hearing is appealable under
44 ORS 419A.200. On appeal of a final decision of the court under this subsection, the court's finding,
45 if any, under ORS 419B.340 (5) that the department is not required to make reasonable efforts to

1 make it possible for the ward to safely return home is an interlocutory order to which a party may
2 assign error.

3 **SECTION 5.** ORS 419B.881 is amended to read:

4 419B.881. (1) In all proceedings brought under ORS 419B.100 or 419B.500, each party, including
5 the state, shall disclose to each other party and to a guardian ad litem appointed under ORS
6 419B.231 the following information and material within the possession or under the control of the
7 party:

8 (a) The names and addresses of all persons the party intends to call as witnesses at any stage
9 of the hearing, together with any relevant written or recorded statements or memoranda of any oral
10 statements of such persons;

11 (b) Any written or recorded statements or memoranda of any oral statements made either by the
12 parent or by the child to any other party or agent for any other party;

13 (c) Any reports or statements of experts who will be called as witnesses, including the results
14 of any physical or mental examinations and of comparisons or experiments that the party intends
15 to offer in evidence at the hearing; and

16 (d) Any books, papers, documents or photographs that the party intends to offer in evidence at
17 the hearing, or that were obtained from or belong to any other party.

18 (2)(a) Disclosure under subsection (1) of this section must be made as soon as practicable fol-
19 lowing the filing of a petition and no later than:

20 (A) Thirty days after a petition alleging jurisdiction has been filed.

21 (B) Three days before any review hearing, except for information received or discovered less
22 than three days prior to the hearing.

23 (C) Ten days before a permanency hearing or a termination trial, except for information received
24 or discovered less than 10 days prior to the hearing or trial.

25 (b) The court may supervise the exercise of discovery to the extent necessary to insure that it
26 proceeds properly and expeditiously.

27 (3)(a) When a ward has been placed in the legal custody of the Department of Human Services
28 for care, placement and supervision under ORS 419B.337, the [*department*] **case planning commit-**
29 **tee convened under ORS 419B.343** shall disclose to all parties the case plan developed under ORS
30 419B.343, modifications to the case plan and any written material or information about services
31 provided to the ward, or to the ward's parent or parents, under the case plan.

32 (b) Disclosure under this subsection must be made within 10 days of:

33 (A) Completion or modification of the case plan; and

34 (B) Receipt by the department of the written material or information about services provided
35 under the case plan.

36 (4) The obligation to disclose is an ongoing obligation and if a party finds, either before or
37 during the hearing, additional material or information that is subject to disclosure, the information
38 or material shall be promptly disclosed.

39 (5) The following material and information need not be disclosed:

40 (a) Attorney work product; and

41 (b) Transcripts, recordings or memoranda of testimony of witnesses before the grand jury, except
42 transcripts or recordings of testimony of a party to the current juvenile court proceeding.

43 (6) Upon a showing of good cause, the court may at any time order that specified disclosure be
44 denied, restricted or deferred or make such other order as is appropriate.

45 (7) Upon request of a party, the court may permit a showing of good cause for denial or regu-

1 lation of disclosure by the parties or the contents of subpoenaed materials, or portion of the show-
2 ing, to be made in camera. A record shall be made of the proceeding.

3 (8) If the court enters an order following an in camera showing, the entire record of the showing
4 shall be sealed and preserved in the records of the court, to be made available to the appellate court
5 in the event of an appeal. The trial court may, after disposition, unseal the record.

6 (9) When some parts of certain material are subject to disclosure and other parts are not, as
7 much of the material as is subject to disclosure shall be disclosed.

8 (10) Upon being notified of any breach of a duty to disclose material or information, the court
9 may:

10 (a) Order the violating party to permit inspection of the material;

11 (b) Grant a continuance;

12 (c) Refuse to permit the witness to testify;

13 (d) Refuse to receive in evidence the material that was not disclosed; or

14 (e) Enter such other order as the court considers appropriate.

15 **SECTION 6.** ORS 419A.116 is amended to read:

16 419A.116. (1) After reviewing each case, the local citizen review board shall make written
17 findings and recommendations with respect to:

18 (a) Whether reasonable efforts were made prior to the placement, to prevent or eliminate the
19 need for removal of the child or ward from the home;

20 (b) If the case plan at the time of the review is to reunify the family, whether the Department
21 of Human Services has made reasonable efforts or, if the Indian Child Welfare Act applies, active
22 efforts to make it possible for the child or ward to safely return home and whether the parent has
23 made sufficient progress to make it possible for the child or ward to safely return home;

24 (c) If the case plan at the time of the review is something other than to reunify the family,
25 whether the *[department]* **case planning committee convened under ORS 419B.343** has made rea-
26 sonable efforts to place the child or ward in a timely manner in accordance with the case plan, in-
27 cluding, if appropriate, placement of the child or ward through an interstate placement, and to
28 complete the steps necessary to finalize the permanent placement of the child or ward;

29 (d) The continuing need for and appropriateness of the placement;

30 (e) Compliance with the case plan;

31 (f) The progress which has been made toward alleviating the need for placement;

32 (g) A likely date by which the child or ward may be returned home or placed for adoption;

33 (h) Other problems, solutions or alternatives the board determines should be explored; and

34 (i) Whether the court should appoint an attorney or other person as special advocate to repre-
35 sent or appear on behalf of the child or ward under ORS 419B.195.

36 (2) The local citizen review board may, if the case plan has changed during the period since the
37 last review by a local citizen review board or court hearing, make written findings and recommen-
38 dations with respect to:

39 (a) Whether the Department of Human Services has made reasonable efforts or, if the Indian
40 Child Welfare Act applies, active efforts to make it possible for the child or ward to safely return
41 home and whether the parent has made sufficient progress to make it possible for the child or ward
42 to safely return home, if a plan to reunify the family was in effect for any part of the period since
43 the last review or hearing; or

44 (b) Whether the *[department]* **case planning committee** has made reasonable efforts to place the
45 child or ward in a timely manner in accordance with the case plan, including, if appropriate,

1 placement of the child or ward through an interstate placement, and to complete the steps necessary
 2 to finalize the permanent placement of the child or ward, if a case plan other than to reunify the
 3 family was in effect for any part of the period since the last review or hearing.

4 (3) In determining whether the Department of Human Services has made reasonable efforts or,
 5 if the Indian Child Welfare Act applies, active efforts to make it possible for the child or ward to
 6 safely return home, the local citizen review board shall consider the child or ward's health and
 7 safety the paramount concerns.

8 (4) No later than 10 days after receiving the findings and recommendations of the local citizen
 9 review board, a party adversely affected by the findings and recommendations may request judicial
 10 review.

11 **SECTION 7.** ORS 419A.122 is amended to read:

12 419A.122. Upon receipt of findings and recommendations from the local citizen review board, the
 13 *[Department of Human Services]* **case planning committee convened under ORS 419B.343** shall:

14 (1) Review the findings and recommendations of the local citizen review board within 10 days
 15 after the findings and recommendations are received by the *[department]* **case planning**
 16 **committee**. The recommendations shall be implemented and the case plan modified as the *[depart-*
 17 *ment]* **case planning committee** deems appropriate and resources permit.

18 (2) Give the local citizen review board written notice of such intent within 17 days of receipt
 19 of the report if the *[department]* **case planning committee** does not intend to implement the rec-
 20 ommendations.

21 (3) Cause the findings and recommendations of the local citizen review board to become part
 22 of the case file of the Department of **Human Services**.

23 **SECTION 8. The amendments to ORS 419A.116, 419A.122, 419B.337, 419B.343, 419B.449,**
 24 **419B.476 and 419B.881 by sections 1 to 7 of this 2015 Act apply to wards or children placed in**
 25 **the custody of the Department of Human Services for care, placement and supervision on**
 26 **or after the effective date of this 2015 Act.**