

Senate Bill 103

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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**.

Requires court to make specific findings of fact following receipt of certain reports in juvenile proceedings.

Permits court to direct Department of Human Services to place or maintain child or ward where effect would be to remove child or ward from adoptive parent.

A BILL FOR AN ACT

1
2 Relating to court orders regarding child placement in juvenile proceedings; amending ORS 419B.449
3 and 419B.476.

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

5 **SECTION 1.** ORS 419B.449 is amended to read:

6 419B.449. (1) Upon receiving any report required by ORS 419B.440, the court may hold a hearing
7 to review the child or ward's condition and circumstances and to determine if the court should
8 continue jurisdiction and wardship or order modifications in the care, placement and supervision of
9 the child or ward. The court shall hold a hearing:

10 (a) In all cases under ORS 419B.440 (1)(b)(B) when the parents' rights have been terminated;

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

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

18 (d) Within 30 days after receipt of a report made under ORS 419B.440 (1)(b)(C); or

19 (e) Within 10 days after receipt of a report made under ORS 419B.440 (1)(c).

20 (2)(a) The court shall conduct a hearing provided in subsection (1) of this section in the manner
21 provided in ORS 419B.310, except that the court may receive testimony and reports as provided in
22 ORS 419B.325. At the conclusion of the hearing, the court shall enter findings of fact.

23 [(3)] **(b) Upon conclusion of a hearing held after receipt of a report under ORS 419B.440**
24 **(1)(a) or (b), when [If]** the child or ward is in substitute care and the decision of the court is to
25 continue the child or ward in substitute care, the findings of the court shall specifically state:

26 [(a)(A)] **(A)(i)** Why continued care is necessary as opposed to returning the child or ward home
27 or taking prompt action to secure another permanent placement; and

28 [(B)] **(ii)** The expected timetable for return or other permanent placement.

29 [(b)] **(B)** Whether the agency having guardianship or legal custody of the child or ward has made

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 diligent efforts to place the child or ward pursuant to ORS 419B.192.

2 [(c)] (C) The number of placements made, schools attended, face-to-face contacts with the as-
 3 signed case worker and visits had with parents or siblings since the child or ward has been in the
 4 guardianship or legal custody of the agency and whether the frequency of each of these is in the
 5 best interests of the child or ward.

6 [(d)] (D) For a child or ward 14 years of age or older, whether the child or ward is progressing
 7 adequately toward graduation from high school and, if not, the efforts that have been made by the
 8 agency having custody or guardianship to assist the child or ward to graduate.

9 [(e)] (E) For a ward 16 years of age or older with a permanency plan of another planned per-
 10 manent living arrangement, the steps the department is taking to ensure that:

11 [(A)] (i) The ward’s substitute care provider is following the reasonable and prudent parent
 12 standard; and

13 [(B)] (ii) The ward has regular, ongoing opportunities to engage in age-appropriate or develop-
 14 mentally appropriate activities, including consultation with the ward in an age-appropriate manner
 15 about the opportunities the ward has to participate in the activities.

16 (c) **Upon conclusion of a hearing held after receipt of a report under ORS 419B.440 (1)(c),**
 17 **the findings of the court shall specifically state:**

18 (A) **Whether the agency removed or plans to remove a child or ward from a foster home,**
 19 **as defined in ORS 418.625, that is certified under ORS 418.635, for the purpose of placing the**
 20 **child or ward in a different substitute care placement; and**

21 (B) **Whether the placement or proposed placement of the child or ward is in the best**
 22 **interest of the child or ward.**

23 (3) **In addition to making the findings of fact required under subsection (2)(c) of this**
 24 **section, the court may direct the Department of Human Services to place or maintain the**
 25 **child or ward in a placement in accordance with ORS 419B.349.**

26 (4) If the ward is in the legal custody of the department but has been placed in the physical
 27 custody of the parent or a person who was appointed the ward’s legal guardian prior to placement
 28 of the ward in the legal custody of the department, and the decision is to continue the ward in the
 29 legal custody of the department and the physical custody of the parent or guardian, the findings of
 30 the court shall specifically state:

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

33 (b) The expected timetable for dismissal of the department’s legal custody of the ward and ter-
 34 mination of the wardship.

35 (5) In making the findings under subsection (2) of this section, the court shall consider the ef-
 36 forts made to develop the concurrent case plan, including, but not limited to, identification of ap-
 37 propriate permanent placement options for the child or ward both inside and outside this state and,
 38 if adoption is the concurrent case plan, identification and selection of a suitable adoptive placement
 39 for the child or ward.

40 (6) In addition to findings of fact required by subsection (2) of this section, the court may order
 41 the department to consider additional information in developing the case plan or concurrent case
 42 plan.

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

45 **SECTION 2.** ORS 419B.476 is amended to read:

1 419B.476. (1) A permanency hearing shall be conducted in the manner provided in ORS 418.312,
2 419B.310, 419B.812 to 419B.839 and 419B.908, except that the court may receive testimony and re-
3 ports as provided in ORS 419B.325.

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

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

10 (b) If the case plan at the time of the hearing is something other than to reunify the family,
11 determine whether the department has made reasonable efforts to place the ward in a timely manner
12 in accordance with the plan, including, if appropriate, reasonable efforts to place the ward through
13 an interstate placement, and to complete the steps necessary to finalize the permanent placement.

14 (c) If the case plan at the time of the hearing is something other than to reunify the family,
15 determine whether the department has considered permanent placement options for the ward, in-
16 cluding, if appropriate, whether the department has considered both permanent in-state placement
17 options and permanent interstate placement options for the ward.

18 (d) Make the findings of fact under ORS 419B.449 [(3)] (2).

19 (3) When the ward is 14 years of age or older, in addition to making the determination required
20 by subsection (2) of this section, at a permanency hearing the court shall review the comprehensive
21 plan for the ward's transition to successful adulthood and determine and make findings as to:

22 (a) Whether the plan is adequate to ensure the ward's transition to successful adulthood;

23 (b) Whether the department has offered appropriate services pursuant to the plan; and

24 (c) Whether the department has involved the ward in the development of the plan.

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

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

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

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

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

40 (e) Review the efforts made by the department to develop the concurrent permanent plan, in-
41 cluding but not limited to identification of appropriate permanent in-state placement options and
42 appropriate permanent interstate placement options and, if adoption is the concurrent case plan,
43 identification and selection of a suitable adoptive placement for the ward;

44 (f) Order the department to develop or expand the case plan or concurrent permanent plan and
45 provide a case progress report to the court and other parties within 10 days after the permanency

- 1 hearing;
- 2 (g) Order the department or agency to modify the care, placement 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 the following:
- 9 (a) The court's determinations required under subsections (2) and (3) of this section, including
- 10 a brief description of the efforts the department has made with regard to the case plan in effect at
- 11 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;
- 18 (D) The ward will be placed with a fit and willing relative; or
- 19 (E) If the ward is 16 years of age or older, the ward will be placed in another planned permanent
- 20 living arrangement.
- 21 (c) If the court determines that the permanency plan for the ward should be to return home
- 22 because further efforts will make it possible for the ward to safely return home within a reasonable
- 23 time, the court's determination of the services in which the parents are required to participate, the
- 24 progress the parents are required to make and the period of time within which the specified progress
- 25 must be made.
- 26 (d) If the court determines that the permanency plan for the ward should be adoption, the
- 27 court's determination of whether one of the circumstances in ORS 419B.498 (2) is applicable.
- 28 (e) If the court determines that the permanency plan for the ward should be establishment of a
- 29 legal guardianship, the court's determination of why neither placement with parents nor adoption
- 30 is appropriate.
- 31 (f) If the court determines that the permanency plan for a ward should be placement with a fit
- 32 and willing relative, the court's determination of why placement with the ward's parents, or for
- 33 adoption, or placement with a legal guardian, is not appropriate.
- 34 (g) If the court determines that the permanency plan for a ward 16 years of age or older should
- 35 be another planned permanent living arrangement, the court's determinations:
- 36 (A) Why another planned permanent living arrangement is in the ward's best interests and a
- 37 compelling reason, that must be documented by the department, why it would not be in the best
- 38 interests of the ward to be returned home, placed for adoption, placed with a legal guardian or
- 39 placed with a fit and willing relative; and
- 40 (B) That the department has taken steps to ensure that:
- 41 (i) The ward's substitute care provider is following the reasonable and prudent parent standard;
- 42 and
- 43 (ii) The ward has regular, ongoing opportunities to engage in age-appropriate or developmentally
- 44 appropriate activities, including consultation with the ward in an age-appropriate manner about the
- 45 opportunities the ward has to participate in the activities.

1 (h) If the current placement is not expected to be permanent, the court's projected timetable for
2 return home or for placement in another planned permanent living arrangement. If the timetable set
3 forth by the court is not met, the department shall promptly notify the court and parties.

4 (i) If an Indian child is involved, the tribal affiliation of the ward.

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

7 (6) In making the determinations under subsection (5)(g) of this section, the court shall ask the
8 ward about the ward's desired permanency outcome.

9 (7) If an Indian child is involved, the court shall follow the placement preference established by
10 the Indian Child Welfare Act.

11 (8) Any final decision of the court made pursuant to the permanency hearing is appealable under
12 ORS 419A.200. On appeal of a final decision of the court under this subsection, the court's finding,
13 if any, under ORS 419B.340 (5) that the department is not required to make reasonable efforts to
14 make it possible for the ward to safely return home is an interlocutory order to which a party may
15 assign error.

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