

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 719**

1 In line 2 of the printed bill, before the period insert “; creating new pro-
2 visions; and amending ORS 419B.812, 419B.848 and 419B.851”.

3 Delete lines 4 through 6 and insert:

4 **“SECTION 1.** ORS 419B.851 is amended to read:

5 “419B.851. (1) Except as otherwise provided in ORS 419B.800 to 419B.929,
6 every order, every petition and answer subsequent to the original petition,
7 every written motion other than one that may be heard ex parte and every
8 written request and similar paper must be served upon each of the parties.

9 “(2)(a) Whenever under ORS 419B.800 to 419B.929 service is required or
10 permitted to be made upon a party, and that party is represented by an at-
11 torney, the service must be made upon the attorney unless otherwise ordered
12 by the court. Service upon the attorney or upon a party must be made by:

13 **“(A)** Delivering a copy to the attorney or party[,];

14 **“(B)** [by] Mailing [it] a **copy** to the attorney’s or party’s last known ad-
15 dress; [or,]

16 **“(C)** If the party is represented by an attorney, [by] facsimile communi-
17 cation device as provided in subsection (6) of this section;

18 **“(D) Electronic mail as provided in subsection (7)(a) of this section;**

19 **or**

20 **“(E) Electronic service through the court’s electronic filing system**
21 **under subsection (7)(b) of this section.**

1 “(b) As used in [this] paragraph (a) of this subsection, ‘delivery of a
2 copy’ means:

3 “(A) Handing it to the person to be served;

4 “(B) Leaving it at the person’s office with the person’s clerk or a person
5 apparently in charge of the office or, if there is no one in charge, leaving it
6 in a conspicuous place in the office; or

7 “(C) If the office is closed or the person to be served has no office, leaving
8 it at the person’s dwelling house or usual place of abode with a person who
9 is over 14 years of age and who resides at the dwelling house or usual place
10 of abode.

11 “[(b)] (c) A party who has appeared without providing an appropriate
12 address for service may be served by placing a copy of the paper required to
13 be served in the court file. Service by mail is complete upon mailing. Service
14 of any notice or other paper to bring a party into contempt may only be upon
15 such party personally.

16 “(3) When a petition is filed under subsection (1) of this section alleging
17 that a child who is a foreign national is within the jurisdiction of the court,
18 or when a motion is filed requesting implementation of a plan other than
19 return of a ward to the ward’s parent, a copy of the petition or motion shall
20 be served on the consulate for the child or ward’s country.

21 “(4)(a) All papers required to be served upon a party under subsection (1)
22 of this section must be filed with the court within a reasonable time after
23 service.

24 “(b) Except as otherwise provided in ORS 419B.812 to 419B.839 and
25 419B.845, proof of service of all papers required or permitted to be served
26 may be by:

27 “(A) Written acknowledgment of service[.];

28 “(B) [by] An affidavit of the person making service; [or by]

29 “(C) A certificate of an attorney[.];

30 “(D) **When service is made by facsimile communication device, an**

1 **affidavit or declaration of the person making service or a certificate**
2 **of an attorney with the printed confirmation of receipt of the message**
3 **that is generated by the facsimile machine attached to the affidavit**
4 **or certificate;**

5 **“(E) When service is made by electronic mail under subsection**
6 **(7)(a) of this section, an affidavit or declaration of the person making**
7 **the service, or certificate of an attorney, stating either that the party**
8 **consented to service by electronic mail or that the person received**
9 **confirmation that the message and attachment were received by the**
10 **party and specifying the method by which the person received confir-**
11 **mation from the party; or**

12 **“(F) If service is made by electronic service under subsection (7)(b)**
13 **of this section, an affidavit or declaration of the person making ser-**
14 **vice, or by certificate of an attorney, specifying that service was**
15 **completed by electronic service.**

16 **“(c) The proof of service required under subparagraphs (E) or (F)**
17 **of paragraph (b) of this subsection may not be by receipt of an auto-**
18 **matically generated message indicating that the party is out of the**
19 **office or an automatically generated delivery status notification.**

20 **“(d) Proof of service may be made upon the papers served or as a separate**
21 **document attached to the papers. [*When service is made by facsimile commu-***
22 ***nication device, proof of service must be made by an affidavit of the person***
23 ***making service or by a certificate of an attorney. The printed confirmation of***
24 ***receipt of the message generated by the facsimile machine must be attached to***
25 ***the affidavit or certificate.]***

26 **“(5) The filing of any papers with the court must be made by filing them**
27 **with the clerk of the court or the person exercising the duties of that office.**
28 **The clerk or the person exercising the duties of that office shall indorse the**
29 **time of day, day of the month, month and year upon the paper. The clerk or**
30 **person exercising the duties of that office is not required to receive any pa-**

1 per for filing unless:

2 “(a) The contents of the paper are legible; and

3 “(b) All of the following are legibly indorsed on the front of the paper:

4 “(A) The name of the court;

5 “(B) The title of the cause and the paper;

6 “(C) The names of the parties; and

7 “(D) If there is one, the name of the attorney for the parties requesting
8 filing.

9 “(6) Whenever under ORS 419B.800 to 419B.929 service is required or
10 permitted to be made upon a party and that party is represented by an at-
11 torney, the service may be made upon the attorney by means of a facsimile
12 if the attorney maintains such a device at the attorney’s office and the device
13 is operating at the time service is made.

14 **“(7) Whenever under ORS 419B.800 to 419B.929 service is required**
15 **or permitted to be made upon a party, unless the party or the party’s**
16 **attorney is exempted from service by electronic mail or electronic**
17 **service by an order of the court, the service may be made by one of**
18 **the following means:**

19 **“(a) Electronic mail. Service by electronic mail is complete under**
20 **this subsection on confirmation of receipt of the electronic mail or, if**
21 **the party has consented to service by electronic mail, on transmission**
22 **of the electronic mail. A party or a party’s attorney must provide the**
23 **name and electronic mail address of that party or that attorney on any**
24 **document served by electronic mail. A party or attorney who has**
25 **made service by electronic mail must notify other parties in writing**
26 **of any changes to that party’s or that attorney’s electronic mail ad-**
27 **dress.**

28 **“(b) Electronic service using the electronic filing system provided**
29 **by the Judicial Department in the manner prescribed in rules adopted**
30 **by the Chief Justice of the Supreme Court.**

1 **“SECTION 2.** ORS 419B.812 is amended to read:

2 “419B.812. (1) As used in this section and ORS 419B.815, 419B.819 and
3 419B.824, a ‘true copy’ of a summons or petition means an exact and complete
4 copy of the original summons or petition with a certificate upon the copy
5 signed by an attorney of record or a party that indicates that the copy is
6 exact and complete.

7 “(2) A summons under ORS 419B.815 or 419B.819 must be titled ‘In the
8 matter of _____, a child’ and must contain the name of the person to be
9 served and the address at which the summons and petition may be served.

10 “(3) The summons must be issued no later than 30 days after the filing
11 of a petition alleging jurisdiction under ORS 419B.100, a petition to establish
12 a permanent guardianship under ORS 419B.365 or a petition seeking termi-
13 nation of parental rights under ORS 419B.500, 419B.502, 419B.504, 419B.506
14 or 419B.508.

15 “(4) The petitioner, the petitioner’s attorney, the juvenile department, the
16 district attorney, the Attorney General or the Department of Human Services
17 may issue a summons.

18 “(5) The summons must be signed by the:

19 “(a) Petitioner;

20 “(b) Petitioner’s attorney;

21 “(c) Juvenile department;

22 “(d) District attorney;

23 “(e) Attorney General; or

24 “(f) Department of Human Services.

25 “(6) The summons must be served with a true copy of the petition.

26 “(7) The summons and petition may be served by any competent person
27 18 years of age or older who is a resident of the state where service is made
28 or of this state.

29 “(8) The summons and petition may be transmitted by telegraph, [or]
30 facsimile **or electronic mail** as provided in ORS 419B.848 (3).

1 “(9) The court shall fix the date and time for the hearing on a petition
2 at a reasonable time after service or, if service is by publication, final pub-
3 lication of the summons. The time may not be less than 24 hours after service
4 or, if service is by publication, final publication in a proceeding to establish
5 jurisdiction under ORS 419B.100 and may not be less than 10 days after ser-
6 vice or, if service is by publication, final publication in a proceeding to es-
7 tablish permanent guardianship or terminate parental rights.

8 **“SECTION 3.** ORS 419B.848 is amended to read:

9 “419B.848. (1) All process authorized to be issued by any court or officer
10 of the court runs in the name of the State of Oregon and must be signed by
11 the officer issuing the process, and if the process is issued by a clerk of the
12 court, the seal of office of the clerk must be affixed to the process.
13 Summonses and subpoenas are not process.

14 “(2) A civil process may be served or executed on Sunday or any legal
15 holiday. No limitation or prohibition stated in ORS 1.060 applies to the ser-
16 vice or execution of a civil process on a Sunday or legal holiday.

17 “(3)(a) [*An order in any case, and all other*] **All** papers requiring service,
18 may be transmitted **from any place** by telegraph, [*or*] facsimile [*for service*
19 *in any place*] **or, if the person upon whom service is to be made has**
20 **provided an electronic mail address for service, by electronic mail.**

21 “(b) The facsimile or telegraphic copy, as defined in ORS 165.840, of the
22 order or paper transmitted may be served or executed by the officer or person
23 to whom it is sent for that purpose and returned by the officer or person if
24 any return is required in the same manner and with the same force and effect
25 in all respects as if the copy were the original. The officer or person serving
26 or executing the order or paper has the same authority and is subject to the
27 same liabilities as if the copy were the original. The original, if an order,
28 must be filed in the court from which it was issued and a certified copy of
29 the order must be preserved in the office from which it was sent. The oper-
30 ator may use either the original or certified copy to transmit the order or

1 paper.

2 “(4) Proof of service or execution of process must be made as provided in
3 ORS **419B.851 or 419B.833.**

4 **“SECTION 4. The amendments to ORS 419B.812, 419B.848 and
5 419B.851 by sections 1 to 3 of this 2017 Act apply to service of process
6 made in court proceedings on or after the effective date of this 2017
7 Act.”.**

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