

Keeping Children Out of Foster Care When They Can be at Home Safely

Section 1: Entry into Foster Care

What does Section 1 of HB 4009 do?

- **It heightens the standard for taking a child into custody without a court order.**
 - Aligns Oregon's statute with the constitutional standard.
 - **Does not** prevent DHS or law enforcement from removing children from dangerous situations.
- **It makes application for a court order for removal easier for caseworkers.**
 - It eliminates the requirement for a notary and allows for the electronic or telephonic exchange of information in order to obtain court order.

Why is Section 1 of HB 4009 Necessary?

- Current Oregon law permits a child to be removed from a parent both with and without a court order. The current process for obtaining a court order to remove a child (called a "protective custody order") can be onerous and Oregon's statute governing removal without a court order is **unconstitutional** according to both the Oregon Court of Appeals and the Federal Court of Appeals.¹
- **45 states have a higher standard** for removal without a court order than Oregon.
- Under Oregon's current standard, **American Indian/Alaska Native children are overrepresented** in foster care at a rate 3.25 times that of the general population and for African American/Black children that rate is 1.8.² Because of this racial disproportionality, [the New York Times](#) has recently labeled Child Protection laws "**The New Jane Crow.**"
- Removal is a traumatic experience that can cause lasting and significant **emotional harm.**³

¹ *Nathan v. Dept. of Human Svcs.*, 288 Or. App. 554 (2017); *Kirkpatrick v. Cty. of Washoe*, 843 F.3d 784 (9th Cir. 2016).

² [DHS, 2016 Child Welfare Data Book](#).

³ [Church & Sankaran, Easy Come, Easy Go: The Plight of Children who Spend Less than Thirty Days in Foster Care, 2016](#); [Mitchell, The Neglected Transition, 2016](#); [Schneider et al., What Happens to Youth Removed from Parental Care: Health and Economic Outcomes for Women with a History of Out-of-Home Placement, 2009](#); [Doyle, Child Protection and Child Outcomes: Measuring the Effects of Foster Care, 2007](#).

Sections 2-6: Exit from Foster Care

What do Sections 2-6 of HB 4009 do?

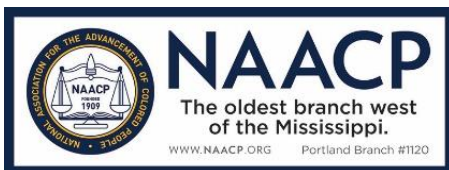
- **Reunifies children waiting to be adopted with their families by reinstating parental rights under certain circumstances**
 - Allows for a parent's rights to be reinstated when the conduct or conditions that led to termination of parental rights have been ameliorated **and** it is in the best interest of the child.
 - Allows the court to decide whether to reinstate parental rights.
 - **Does not** allow anyone—a biological parent, a child, or DHS—to disrupt an existing adoption. Also prohibits the filing of a motion to reinstate parental rights after an adoption petition has been filed.

Why are Sections 2-6 of HB 4009 Necessary?

- Currently, the juvenile court may not return a child to her parent after that parent's rights have been terminated—even if the child has not been adopted and the parent has made significant changes.
- More than 1,700 children in Oregon are waiting to be adopted.⁴
- 16 other states, including Washington, Colorado, and California, allow for similar paths to permanency.
- The Oregon Court of Appeals has suggested that a legislative fix is necessary to allow families to reunite.⁵
- Children of color and those with disabilities are more likely to age out of foster care without a permanent family.⁶
- Support for each child who has not been adopted costs the state approximately \$28,600/year.⁷

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⁵ Dept. of Human Services v. K.W., 273 Or App 611 (2015).

⁶ Post & Zimmerman, *The Revolving Doors of Family Court: Confronting Broken Adoptions*, 2012.

⁷ Fixsen, *Children in Foster Care: Societal and Financial Costs*, 2011 (number adjusted for inflation).

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