

House Bill 2337

Sponsored by Representative STARK, Senator GELSER (Pre-session filed.)

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**.

Establishes Foster Parent Ombudsman in Department of Human Services and prescribes duties. Establishes Foster Parent Ombudsman Advisory Committee to monitor ombudsman, advise Governor and Legislative Assembly on ombudsman and nominate individuals to serve as ombudsman if vacancy occurs.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to foster parents; creating new provisions; amending ORS 418.648; and prescribing an ef-
3 fective date.

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

SECTION 1. (1) As used in this section:

5
6 (a) **"Foster parent" means an individual who has a certificate to operate a foster home**
7 **issued under ORS 418.635 and who is providing care to a foster child in the individual's home.**

8 (b) **"Service provider" means an individual, entity, agency or program that provides in-**
9 **formation and services to foster parents, either directly or indirectly, including but not lim-**
10 **ited to:**

11 (A) **Information and assistance in accessing parental and community support, services**
12 **and resources;**

13 (B) **Respite care;**

14 (C) **Training; and**

15 (D) **Coaching, mentoring or counseling.**

16 (2) **The Foster Parent Ombudsman is established in the Department of Human Services.**
17 **The Governor shall appoint the ombudsman in consultation with the Foster Parent Om-**
18 **budsman Advisory Committee established in section 4 of this 2019 Act. The ombudsman shall**
19 **be appointed for a four-year term. The Governor shall fill a vacancy in the position no later**
20 **than 60 days after the vacancy occurs, in the same manner as the appointment is made.**

21 (3) **The Foster Parent Ombudsman shall:**

22 (a) **Provide foster parents and individuals acting on their behalf with information re-**
23 **garding the rights of foster parents set forth in ORS 418.648;**

24 (b) **Investigate any complaint made by or on behalf of a foster parent if the allegations**
25 **contained in the complaint may adversely affect the health, safety, welfare or rights of the**
26 **foster parent;**

27 (c) **Assist foster parents in identifying and accessing resources in the community and in**
28 **connecting with local service providers;**

29 (d) **Encourage foster parents to participate in general studies, conferences, inquiries or**
30 **meetings related to foster care in this state;**

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 (e) Organize or collaborate with others in organizing general studies, conferences, in-
 2 quiries or meetings to develop recommendations for improving the foster care system in this
 3 state;

4 (f) Monitor the development and implementation of federal, state and local laws and pol-
 5 icies that impact the foster care system in this state;

6 (g) Collect and compile data necessary to prepare the report submitted to the Governor
 7 under ORS 182.500 and provide a copy of the report to the Governor’s Child Foster Care
 8 Advisory Commission established in ORS 418.041; and

9 (h) Provide information to state and local agencies about problems identified and reforms
 10 undertaken in the foster care system in this state and work closely with associations and
 11 citizen groups and with the state protection and advocacy system under ORS 192.517.

12 (4)(a) The Foster Parent Ombudsman shall:

13 (A) Maintain the hotline telephone number for foster parents required by ORS 418.648
 14 (12); and

15 (B) In consultation with the Foster Parent Ombudsman Advisory Committee, establish
 16 procedures for a foster parent to make a complaint about the foster parent’s interaction
 17 with individuals or agencies involved in the foster care system.

18 (b)(A) The ombudsman and each designee appointed under section 2 of this 2019 Act shall
 19 have access to records of any public agency, to the extent permitted by state and federal law,
 20 that are necessary to carry out the duties of the ombudsman. The provisions of ORS 192.553
 21 to 192.581 are not intended to limit the access of the ombudsman to the records of a foster
 22 parent or foster child, including medical records of the foster child as authorized by the
 23 foster child or an individual legally authorized to act on behalf of the foster child, if needed
 24 to investigate a complaint.

25 (B) The ombudsman and each designee shall have access to electronic records of the
 26 Department of Human Services that are necessary to carry out the duties of the ombuds-
 27 man. The ombudsman and each designee shall ensure that records accessed by the ombuds-
 28 man that are confidential, privileged or otherwise protected from disclosure are not further
 29 disclosed, except as permitted by state and federal law.

30 (c) The ombudsman or a designee shall report to a foster parent the findings of the om-
 31 budsman or designee in the investigation of the complaint and may make recommendations.
 32 If appropriate, the ombudsman or designee shall attempt to resolve the complaint using in-
 33 formal mediation or conflict resolution techniques.

34 (5) A foster parent who makes a complaint to the Foster Parent Ombudsman in good
 35 faith under this section, or who participates in an investigation of a complaint:

36 (a) May not be subjected to a penalty, sanction or restriction, or be denied any right,
 37 privilege or benefit, on account of making the complaint or participating in the investigation
 38 of the complaint; and

39 (b) Shall have immunity from any civil or criminal liability that might otherwise be in-
 40 curred or imposed on account of making the complaint or participating in the investigation
 41 of the complaint.

42 (6) All state agencies shall cooperate with and assist the Foster Parent Ombudsman in
 43 the performance of the ombudsman’s duties and functions.

44 **SECTION 2.** (1) The Foster Parent Ombudsman may appoint designees to serve as rep-
 45 resentatives of the ombudsman in local communities. The ombudsman shall regularly moni-

1 tor the functions of designees.

2 (2) The appointments of designees by the Foster Parent Ombudsman shall be made in
 3 consultation with a local screening committee that may consist of but need not be limited
 4 to persons representing:

- 5 (a) The Department of Human Services.
- 6 (b) Elected officials.
- 7 (c) The Oregon Health Authority.
- 8 (d) Foster care providers.
- 9 (e) Court appointed special advocates.
- 10 (f) Local citizen review boards.

11 (3) To be appointed as a designee, a person must complete an initial training and attend
 12 quarterly training sessions that are approved by the Foster Parent Ombudsman.

13 (4) Designees must sign a contract with the Foster Parent Ombudsman that outlines the
 14 scope of their duties.

15 (5) The qualifications of designees shall include experience working with foster care pro-
 16 viders and the ability to communicate well, to understand laws, rules and regulations and to
 17 be assertive and objective.

18 (6) Applicants who have relevant experience in social work, mental health, pediatrics or
 19 paralegal work shall be given preference in the appointment of designees.

20 **SECTION 3.** The Foster Parent Ombudsman shall establish procedures to maintain the
 21 confidentiality of the records and files of foster parents. The procedures must meet the fol-
 22 lowing requirements:

23 (1) The Foster Parent Ombudsman or designee may not disclose, except to law enforce-
 24 ment and state agencies, the identity of any foster parent, or individual acting on behalf of
 25 a foster parent, without written consent signed by the foster parent, the legal representative
 26 of the foster parent or an individual legally authorized to act on behalf of the foster parent.
 27 The written consent must specify to whom the disclosure may be made.

28 (2) The identity of any foster parent or individual providing information on behalf of the
 29 foster parent shall be confidential. If the complaint becomes the subject of judicial pro-
 30 ceedings, the investigative information held by the Foster Parent Ombudsman or designee
 31 shall be disclosed for the purpose of the proceedings if requested by the court.

32 **SECTION 4.** (1) The Foster Parent Ombudsman Advisory Committee is established con-
 33 sisting of five members appointed by the Governor and confirmed by the Senate under ORS
 34 171.562 and 171.565.

35 (2) The term of office for each member is four years. Before the expiration of the term
 36 of a member, the Governor shall appoint a successor whose term begins July 1 next follow-
 37 ing. A member is eligible for reappointment. If there is a vacancy for any cause, the Gover-
 38 nor shall make an appointment to become immediately effective for the unexpired term.

39 (3) The members of the committee must:

- 40 (a) Be residents of this state;
- 41 (b) Include individuals who are or who represent current or former foster parents, in-
 42 cluding racial and ethnic minorities;
- 43 (c) Have knowledge and interest in the problems of foster parents; and
- 44 (d) Be representative of all areas of this state and the demographics of groups served by
 45 the Foster Parent Ombudsman.

1 (4) The committee shall select one of its members as chairperson and another as vice
 2 chairperson, for such terms and with duties and powers necessary for the performance of
 3 the functions of such offices as the committee determines.

4 (5) A majority of the members of the committee constitutes a quorum for the transaction
 5 of business. Decisions may be made by a majority of the quorum.

6 (6) The committee shall meet at least once each month at a place, day and hour deter-
 7 mined by the committee. The committee also shall meet at other times and places specified
 8 by the call of the chairperson or of a majority of the members of the committee. The com-
 9 mittee shall confer each month with the Foster Parent Ombudsman.

10 (7) Members of the committee are not entitled to compensation or reimbursement for
 11 expenses and serve as volunteers.

12 **SECTION 5. The Foster Parent Ombudsman Advisory Committee shall:**

13 (1) Monitor the Foster Parent Ombudsman.

14 (2) Advise the Governor and the Legislative Assembly on the Foster Parent Ombudsman.

15 (3) Nominate, after interviews and according to prescribed criteria, three persons to fill
 16 the Foster Parent Ombudsman position or to fill a vacancy in the position.

17 **SECTION 6.** ORS 418.648 is amended to read:

18 418.648. A foster parent has the right to:

19 (1) Be treated with dignity, respect and trust as a member of a team, including respect for the
 20 family values and routines of the foster parent.

21 (2) Be included as a valued member of a team that provides care and planning for a foster child
 22 placed in the home of the foster parent.

23 (3) Receive support services, as resources permit, from the Department of Human Services that
 24 are designed to assist in the care of the foster child placed in the home of the foster parent.

25 (4) Be informed of any condition that relates solely to a foster child placed in the home of the
 26 foster parent that may jeopardize the health or safety of the foster parent or other members of the
 27 home or alter the manner in which foster care should be provided to the foster child. The informa-
 28 tion shall include complete access to written reports, psychological evaluations and diagnoses that
 29 relate solely to a foster child placed in the home of the foster parent provided that confidential in-
 30 formation given to a foster parent must be kept confidential by the foster parent, except as neces-
 31 sary to promote or to protect the health and welfare of the foster child and the community.

32 (5) Have input into a permanency plan for a foster child placed in the home of the foster parent.

33 (6) Receive assistance from the department in dealing with family loss and separation when the
 34 foster child leaves the home of the foster parent.

35 (7) Be informed of all policies and procedures of the department that relate to the role of the
 36 foster parent.

37 (8) Be informed of how to receive services and to have access to department personnel or ser-
 38 vice providers 24 hours a day, seven days a week.

39 (9) Initiate an inactive referral status for a reasonable period of time, not to exceed 12 months,
 40 to allow a foster parent relief from caring for foster children.

41 (10) Not be discriminated against on the basis of race, color, religion, sex, sexual orientation,
 42 national origin, age or disability.

43 (11) Be notified of the foster parent's right to limited participation in proceedings in the juvenile
 44 court and provided with an explanation of that right.

45 (12) Have a hotline telephone number that is available to the foster parent at all times

1 for the purpose of enabling the foster parent to make complaints and assert grievances re-
2 garding the foster parent's duties.

3 (13) Be provided with written contact information, updated as necessary and kept cur-
4 rent, for specific individuals whom the foster parent may contact regarding complaints,
5 concerns or violations of rights.

6 (14) Be informed about the Foster Parent Ombudsman and have access to the services
7 described in section 1 of this 2019 Act.

8 SECTION 7. Sections 1 to 5 of this 2019 Act and the amendments to ORS 418.648 by sec-
9 tion 6 of this 2019 Act become operative on January 1, 2020.

10 SECTION 8. The Foster Parent Ombudsman and the Foster Parent Ombudsman Advisory
11 Committee shall be appointed before January 1, 2020, and may take any action before that
12 date that is necessary for the ombudsman and the committee to exercise, on and after Jan-
13 uary 1, 2020, the duties, functions and powers of the ombudsman and the committee pursuant
14 to sections 1 to 5 of this 2019 Act and the amendments to ORS 418.648 by section 6 of this
15 2019 Act.

16 SECTION 9. This 2019 Act takes effect on the 91st day after the date on which the 2019
17 regular session of the Eightieth Legislative Assembly adjourns sine die.

18