

# House Bill 2681

Sponsored by Representative NOSSE (Presession 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**.

Removes requirement that person seeking intervention in juvenile dependency proceeding or rights of limited participation in juvenile dependency or delinquency proceeding prove that existing parties cannot adequately present case.

## A BILL FOR AN ACT

1  
2 Relating to persons seeking participation in juvenile court proceedings; creating new provisions; and  
3 amending ORS 419B.116 and 419C.285.

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

5 **SECTION 1.** ORS 419B.116 is amended to read:

6 419B.116. (1)(a) As used in this section, "caregiver relationship" means a relationship between  
7 a person and a child or ward:

8 (A) That has existed:

9 (i) For the 12 months immediately preceding the initiation of the dependency proceeding;

10 (ii) For at least six months during the dependency proceeding; or

11 (iii) For half of the child or ward's life if the child or ward is less than six months of age;

12 (B) In which the person had physical custody of the child or ward or resided in the same  
13 household as the child or ward;

14 (C) In which the person provided the child or ward on a daily basis with the love, nurturing and  
15 other necessities required to meet the child or ward's psychological and physical needs; and

16 (D) On which the child depended to meet the child or ward's needs.

17 (b) "Caregiver relationship" does not include a relationship between a child or ward and a per-  
18 son who is the nonrelated foster parent of the child or ward unless the relationship continued for  
19 a period of at least 12 consecutive months.

20 (2) A person asserting that the person has a caregiver relationship with a child or ward may file  
21 a motion for intervention in a juvenile dependency proceeding.

22 (3) Filing a motion under subsection (2) of this section is the sole means by which a person may  
23 become a party to a juvenile dependency proceeding as an intervenor. An order granting inter-  
24 vention under this section is exclusively for juvenile dependency proceedings and does not confer  
25 standing or rights of intervention in any other action. Intervention is not allowed in proceedings  
26 under ORS 419B.500.

27 (4) A motion for intervention under subsection (2) of this section must state:

28 (a) The person's relationship to the child or ward and the person's involvement in the child or  
29 ward's life;

30 (b) The reason that intervention is sought;

31 (c) How the person's intervention is in the best interests of the child or ward; **and**

**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        *[(d) Why the existing parties cannot adequately present the case; and]*

2        *[(e)] (d) What specific relief is being sought.*

3        (5)(a) If a party wishes to oppose a motion for intervention, the party must file a written ob-  
 4        jection to the motion stating the grounds for the objection no later than 21 days after the motion  
 5        is filed. If no written objection is filed as provided in this paragraph, the court may grant the motion  
 6        without a hearing. Except as provided in paragraph (b) of this subsection, if a written objection is  
 7        filed as provided in this paragraph, the court shall hold a hearing on the motion.

8        (b) If a motion for intervention does not state a prima facie case as to the facts that must be  
 9        proved under paragraph (c) of this subsection, the court may deny the motion without a hearing.

10       (c) If the court holds a hearing on the motion for intervention, the court may grant the motion  
 11       for intervention if the person moving to intervene in the case proves by a preponderance of the  
 12       evidence that:

13       (A) A caregiver relationship exists between the person and the child or ward;

14       (B) The intervention is in the best interests of the child or ward; **and**

15       (C) The reason for intervention and the specific relief sought are consistent with the best in-  
 16       terests of the child or ward[; *and*].

17       *[(D) The existing parties cannot adequately present the case.]*

18       (6) A person granted intervention is a party to the case and, except as provided in subsection  
 19       *[(11)] (10)* of this section, may be granted such relief as the court determines to be appropriate and  
 20       in the best interests of the child or ward.

21       (7) A person who is not a party under ORS 419B.875 or a person who intends to file a motion  
 22       for appointment as a community guardian under ORS 419B.371 may seek rights of limited partic-  
 23       ipation by filing a written motion for limited participation in a juvenile court proceeding. *[Except*  
 24       *as provided in subsection (9) of this section,]* The motion must state:

25       (a) The reason that limited participation is being sought;

26       (b) How the person's limited participation is in the best interests of the child or ward; **and**

27       *[(c) Why the parties cannot adequately present the case; and]*

28       *[(d)] (c)* The specific rights of limited participation that are being sought.

29       (8)(a) If a party wishes to oppose a motion filed under subsection (7) of this section, the party  
 30       must file a written objection to the motion stating the grounds for the objection no later than 21  
 31       days after the motion is filed. If no written objection is filed as provided in this paragraph, the court  
 32       may grant the motion without a hearing.

33       (b) If a motion seeking rights of limited participation does not state a prima facie case as to the  
 34       facts that must be proved under paragraph (c) of this subsection, the court may deny the motion  
 35       without a hearing.

36       (c) If the court holds a hearing on the motion seeking rights of limited participation, the court  
 37       may grant the motion if the person seeking rights of limited participation proves by a preponderance  
 38       of the evidence that:

39       (A) The person's limited participation is in the best interests of the child or ward; **and**

40       (B) The reason for limited participation and the specific rights sought are consistent with the  
 41       best interests of the child or ward[; *and*].

42       *[(C) The parties cannot adequately present the case.]*

43       *[(9) The requirements of subsections (7)(c) and (8)(c)(C) of this section do not apply to a motion or*  
 44       *court order seeking or granting limited participation when the right of limited participation sought and*  
 45       *granted would be for the purpose of establishing a community guardianship under ORS 419B.371.]*

1        [(10)] (9) If the court grants a motion under subsection (8) of this section, the court shall specify  
 2 in the order the rights of limited participation that are being granted.

3        [(11)(a)] (10)(a) At any time, a person granted intervention or a person granted rights of limited  
 4 participation may move to be considered a temporary placement or visitation resource for the child  
 5 or ward.

6        (b) At any time after a court has determined at a permanency hearing that the permanent plan  
 7 for the child or ward should be something other than to return home, a person granted intervention  
 8 may move to be considered the permanent placement resource for the child or ward.

9        [(12)] (11) The court may modify or set aside any order granting intervention or rights of limited  
 10 participation as provided in ORS 419B.923.

11        **SECTION 2.** ORS 419C.285 is amended to read:

12        419C.285. (1) At the adjudication stage of a delinquency proceeding, the parties to the proceed-  
 13 ing are the youth and the state, represented by the district attorney or the juvenile department. At  
 14 the dispositional stage of a delinquency proceeding, the following are also parties:

15        (a) The parents or guardian of the youth;

16        (b) A court appointed special advocate, if appointed;

17        (c) The Oregon Youth Authority or other child care agency, if the youth is temporarily com-  
 18 mitted to the agency; and

19        (d) An intervenor who petitions or files a motion on the basis of a child-parent relationship un-  
 20 der ORS 109.119.

21        (2) The rights of the parties include, but are not limited to:

22        (a) The right to notice of the proceeding and copies of the pleadings;

23        (b) The right to appear with counsel and to have counsel appointed if otherwise provided by law;

24        (c) The right to call witnesses, cross-examine witnesses and participate in hearings;

25        (d) The right to appeal;

26        (e) The right to request a hearing; and

27        (f) The right to notice of any proceeding before the Psychiatric Security Review Board.

28        (3)(a) Persons who are not parties under subsection (1) of this section may petition the court for  
 29 rights of limited participation. The petition must be filed and served on all parties no later than two  
 30 weeks before a proceeding in the case in which participation is sought. The petition must state:

31        (A) The reason the participation is sought;

32        (B) How the person's involvement is in the best interest of the youth or the administration of  
 33 justice; **and**

34        [(C) *Why the parties cannot adequately present the case; and*]

35        [(D)] (C) What specific relief is being sought.

36        (b) If the court finds that the petition is well founded, the court may grant rights of limited  
 37 participation as specified by the court.

38        (c) Persons petitioning for rights of limited participation are not entitled to appointed counsel.

39        (4) In all delinquency proceedings, interpreters shall be appointed in the manner specified by  
 40 ORS 45.275 and 45.285 for the parties to the proceeding, the victim, witnesses, any person granted  
 41 rights of limited participation, and any parent or guardian of the youth without regard to whether  
 42 the parent or guardian is a party to the proceeding.

43        **SECTION 3. The amendments to ORS 419B.116 and 419C.285 by sections 1 and 2 of this**  
 44 **2019 Act apply only to juvenile court proceedings commenced on or after the effective date**  
 45 **of this 2019 Act.**

