

Enrolled
House Bill 2849

Sponsored by Representative SANCHEZ, Senator GELSER, Representative NOBLE; Representatives BYNUM, DRAZAN, HELT, LIVELY, SOLLMAN, STARK, WILLIAMS

CHAPTER

AN ACT

Relating to protective custody of children; creating new provisions; and amending ORS 418.937, 419B.021, 419B.023, 419B.055, 419B.100, 419B.121, 419B.150, 419B.185 and 419C.156.

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

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 419B.

SECTION 2. (1) If it reasonably appears that a child is a runaway, the child may be taken into protective custody by a peace officer, counselor, employee of the Department of Human Services or any other person authorized by the juvenile court of the county in which the child is found.

(2) When a child is taken into protective custody as a runaway under subsection (1) of this section, the peace officer or other person who takes the child into custody:

(a)(A) Shall release the child without unnecessary delay to the custody of the child's parent or guardian or to a shelter facility that has agreed to provide care and services to runaway children and that has been designated by the juvenile court to provide such care and services; or

(B) Shall follow the procedures described in ORS 419B.160, 419B.165, 419B.168 and 419B.171;

(b) Shall, if possible, determine the preferences of the child and the child's parent or guardian as to whether the best interests of the child are better served by placement in a shelter facility that has agreed to provide care and services to runaway children and that has been designated by the juvenile court to provide such care and services or by release to the child's parent or guardian; and

(c) Notwithstanding ORS 419B.165 and subsection (1) of this section, shall release the child to a shelter facility that has agreed to provide care and services to runaway children and that has been designated by the juvenile court to provide such care and services if it reasonably appears that the child would not willingly remain at home if released to the child's parent or guardian.

SECTION 2a. If Senate Bill 924 becomes law, section 2 of this 2019 Act is amended to read:

Sec. 2. (1) If it reasonably appears that a child is a runaway, the child may be taken into protective custody by a peace officer, counselor, employee of the Department of Human Services or any other person authorized by the juvenile court of the county in which the child is found.

(2) When a child is taken into protective custody as a runaway under subsection (1) of this section, the peace officer or other person who takes the child into custody:

(a)(A) Shall release the child without unnecessary delay to the custody of the child's parent or guardian or to a shelter **care** facility that has agreed to provide care and services to runaway children and that has been designated by the juvenile court to provide such care and services; or

(B) Shall follow the procedures described in ORS 419B.160, 419B.165, 419B.168 and 419B.171;

(b) Shall, if possible, determine the preferences of the child and the child's parent or guardian as to whether the best interests of the child are better served by placement in a shelter **care** facility that has agreed to provide care and services to runaway children and that has been designated by the juvenile court to provide such care and services or by release to the child's parent or guardian; and

(c) Notwithstanding ORS 419B.165 and subsection (1) of this section, shall release the child to a shelter **care** facility that has agreed to provide care and services to runaway children and that has been designated by the juvenile court to provide such care and services if it reasonably appears that the child would not willingly remain at home if released to the child's parent or guardian.

SECTION 3. ORS 419B.150 is amended to read:

419B.150. [(1) A child may be taken into protective custody by a peace officer, counselor, employee of the Department of Human Services or any other person authorized by the juvenile court of the county in which the child is found, in the following circumstances:]

[(a) When the child's condition or surroundings reasonably appear to be such as to jeopardize the child's welfare;]

[(b) When the juvenile court, by order indorsed on the summons as provided in ORS 419B.839 or otherwise, has ordered that the child be taken into protective custody; or]

[(c) When it reasonably appears that the child has run away from home.]

[(2)(a) Before issuing an order under subsection (1)(b) of this section, the court shall review an affidavit sworn on information and belief provided by a peace officer, counselor or employee of the department or other person authorized by the juvenile court that sets forth with particularity the facts and circumstances on which the request for protective custody is based, why protective custody is in the best interests of the child and the reasonable efforts or, if the Indian Child Welfare Act applies, active efforts made by the department to eliminate the need for protective custody of the child.]

[(b) Except as provided in paragraph (c) of this subsection, an order directing that a child be taken into protective custody under subsection (1) of this section shall contain written findings, including a brief description of the reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to eliminate the need for protective custody of the child that the department has made and why protective custody is in the best interests of the child.]

[(c) The court may issue an order even though no services have been provided if the court makes written findings that no existing services could eliminate the need for protective custody of the child and that protective custody is in the best interests of the child.]

[(3) When a child is taken into protective custody as a runaway under subsection (1) of this section, the peace officer or other person who takes the child into custody:]

[(a)(A) Shall release the child without unnecessary delay to the custody of the child's parent or guardian or to a shelter facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services; or]

[(B) Shall follow the procedures described in ORS 419B.160, 419B.165, 419B.168 and 419B.171;]

[(b) Shall, if possible, determine the preferences of the child and the child's parent or guardian as to whether the best interests of the child are better served by placement in a shelter facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services or by release to the child's parent or guardian; and]

[(c) Notwithstanding ORS 419B.165 and subsection (1) of this section, shall release the child to a shelter facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services if it reasonably

appears that the child would not willingly remain at home if released to the child's parent or guardian.]

(1) As used in this section:

(a) "Abuse" has the meaning given that term in ORS 419B.005.

(b) "Reasonable cause" means a subjectively and objectively reasonable belief, given all of the circumstances and based on specific and articulable facts.

(c) "Severe harm" means:

(A) Life-threatening damage; or

(B) Significant or acute injury to a person's physical, sexual or psychological functioning.

(2) The following persons are authorized to take a child into protective custody under this section:

(a) A peace officer, as defined in ORS 420.905;

(b) A counselor; or

(c) An employee of the Department of Human Services.

(3)(a) Except as provided in paragraph (b) of this subsection, a child may be taken into protective custody without a court order only when there is reasonable cause to believe that:

(A) There is an imminent threat of severe harm to the child;

(B) The child poses an imminent threat of severe harm to self or others;

(C) There is an imminent threat that the child's parent or guardian will cause the child to be beyond the reach of the juvenile court before the department can complete assessment of an abuse allegation involving the child; or

(D) There is an imminent threat that the child's parent or guardian will cause the child to be beyond the reach of the juvenile court before the court can order that the child be taken into protective custody under subsection (6) of this section.

(b) If there is reason to know that the child is an Indian child, the child may be taken into protective custody without a court order only when it is necessary to prevent imminent physical damage or harm to the child.

(4) A person authorized to take a child into protective custody shall apply for a protective custody order, as described in subsection (6) of this section, by submitting a declaration based on information and belief that sets forth with particularity:

(a) Why protective custody is necessary and the least restrictive means available to:

(A) Protect the child from abuse;

(B) Prevent the child from inflicting harm on self or others;

(C) Ensure that the child remains within the reach of the juvenile court to protect the child from abuse or to prevent the child from inflicting harm on self or others; or

(D) If the department knows or has reason to know that the child is an Indian child, prevent imminent physical damage or harm to the child.

(b) Why protective custody is in the best interests of the child.

(5)(a) The applicant under subsection (4) of this section shall deliver the declaration described in subsection (4) of this section to the juvenile court.

(b) At the applicant's request, instead of the declaration described in subsection (4) of this section, the judge may take an oral statement under oath. If the applicant makes the oral statement to the judge out of court, the applicant shall record the oral statement and retain a copy of the recording. The recording constitutes a declaration for the purposes of subsection (4) of this section.

(6) The juvenile court may order that a child be taken into protective custody if, after reviewing the declaration described in subsection (4) of this section, the court determines that:

(a) Protective custody is necessary and the least restrictive means available to:

(A) Protect the child from abuse;

(B) Prevent the child from inflicting harm on self or others;

(C) Ensure that the child remains within the reach of the juvenile court to protect the child from abuse or prevent the child from inflicting harm on self or others;

(D) Ensure the safety of a child who has run away from home; or

(E) If the department knows or has reason to know that the child is an Indian child, prevent imminent physical damage or harm to the child; and

(b) Protective custody is in the best interests of the child.

(7) When the court issues a protective custody order under subsection (6) of this section, the court may transmit the signed order to the applicant by a form of electronic communication approved by the court that delivers a complete printable image of the signed order. The court shall file the original order in the court record.

SECTION 3a. If Senate Bill 924 becomes law, section 3 of this 2019 Act (amending ORS 419B.150) is repealed and ORS 419B.150, as amended by section 8, chapter 382, Oregon Laws 2019 (Enrolled Senate Bill 924), is amended to read:

419B.150. [(1) A child may be taken into protective custody by a peace officer, counselor, employee of the Department of Human Services or any other person authorized by the juvenile court of the county in which the child is found, in the following circumstances:]

[(a) When the child's condition or surroundings reasonably appear to be such as to jeopardize the child's welfare;]

[(b) When the juvenile court, by order indorsed on the summons as provided in ORS 419B.839 or otherwise, has ordered that the child be taken into protective custody; or]

[(c) When it reasonably appears that the child has run away from home.]

[(2)(a) Before issuing an order under subsection (1)(b) of this section, the court shall review an affidavit sworn on information and belief provided by a peace officer, counselor or employee of the department or other person authorized by the juvenile court that sets forth with particularity the facts and circumstances on which the request for protective custody is based, why protective custody is in the best interests of the child and the reasonable efforts or, if the Indian Child Welfare Act applies, active efforts made by the department to eliminate the need for protective custody of the child.]

[(b) Except as provided in paragraph (c) of this subsection, an order directing that a child be taken into protective custody under subsection (1) of this section shall contain written findings, including a brief description of the reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to eliminate the need for protective custody of the child that the department has made and why protective custody is in the best interests of the child.]

[(c) The court may issue an order even though no services have been provided if the court makes written findings that no existing services could eliminate the need for protective custody of the child and that protective custody is in the best interests of the child.]

[(3) When a child is taken into protective custody as a runaway under subsection (1) of this section, the peace officer or other person who takes the child into protective custody:]

[(a)(A) Shall release the child without unnecessary delay to the custody of the child's parent or guardian or to a shelter care facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services; or]

[(B) Shall follow the procedures described in ORS 419B.160, 419B.165, 419B.168 and 419B.171;]

[(b) Shall, if possible, determine the preferences of the child and the child's parent or guardian as to whether the best interests of the child are better served by placement in a shelter care facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services or by release to the child's parent or guardian; and]

[(c) Notwithstanding ORS 419B.165 and subsection (1) of this section, shall release the child to a shelter care facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services if it reasonably appears that the child would not willingly remain at home if released to the child's parent or guardian.]

- (1) As used in this section:
- (a) "Abuse" has the meaning given that term in ORS 419B.005.
 - (b) "Reasonable cause" means a subjectively and objectively reasonable belief, given all of the circumstances and based on specific and articulable facts.
 - (c) "Severe harm" means:
 - (A) Life-threatening damage; or
 - (B) Significant or acute injury to a person's physical, sexual or psychological functioning.
- (2) The following persons are authorized to take a child into protective custody under this section:
- (a) A peace officer, as defined in ORS 420.905;
 - (b) A counselor; or
 - (c) An employee of the Department of Human Services.
- (3)(a) Except as provided in paragraph (b) of this subsection, a child may be taken into protective custody without a court order only when there is reasonable cause to believe that:
- (A) There is an imminent threat of severe harm to the child;
 - (B) The child poses an imminent threat of severe harm to self or others; or
 - (C) There is an imminent threat that the child's parent or guardian will cause the child to be beyond the reach of the juvenile court before the court can order that the child be taken into protective custody under subsection (6) of this section.
- (b) If there is reason to know that the child is an Indian child, the child may be taken into protective custody without a court order only when it is necessary to prevent imminent physical damage or harm to the child.
- (4) A person authorized to take a child into protective custody shall apply for a protective custody order, as described in subsection (6) of this section, by submitting a declaration based on information and belief that sets forth with particularity:
- (a) Why protective custody is necessary and the least restrictive means available to:
 - (A) Protect the child from abuse;
 - (B) Prevent the child from inflicting harm on self or others;
 - (C) Ensure that the child remains within the reach of the juvenile court to protect the child from abuse or to prevent the child from inflicting harm on self or others; or
 - (D) If the department knows or has reason to know that the child is an Indian child, prevent imminent physical damage or harm to the child.
 - (b) Why protective custody is in the best interests of the child.
- (5)(a) The applicant under subsection (4) of this section shall deliver the declaration described in subsection (4) of this section to the juvenile court.
- (b) At the applicant's request, instead of the declaration described in subsection (4) of this section, the judge may take an oral statement under oath. If the applicant makes the oral statement to the judge out of court, the applicant shall record the oral statement and retain a copy of the recording. The recording constitutes a declaration for the purposes of subsection (4) of this section.
- (6) The juvenile court may order that a child be taken into protective custody if, after reviewing the declaration described in subsection (4) of this section, the court determines that:
- (a) Protective custody is necessary and the least restrictive means available to:
 - (A) Protect the child from abuse;
 - (B) Prevent the child from inflicting harm on self or others;
 - (C) Ensure that the child remains within the reach of the juvenile court to protect the child from abuse or prevent the child from inflicting harm on self or others;
 - (D) Ensure the safety of a child who has run away from home; or
 - (E) If the department knows or has reason to know that the child is an Indian child, prevent imminent physical damage or harm to the child; and
 - (b) Protective custody is in the best interests of the child.

(7) When the court issues a protective custody order under subsection (6) of this section, the court may transmit the signed order to the applicant by a form of electronic communication approved by the court that delivers a complete printable image of the signed order. The court shall file the original order in the court record.

SECTION 4. ORS 418.937 is amended to read:

418.937. When making any placement decision involving a refugee child under ORS 419B.150, 419C.080 or 419C.088 **or section 2 of this 2019 Act**, the Department of Human Services and the juvenile court shall consider that child's culture and tradition. Unless shown to be inappropriate and inconsistent with the best interests of the child, the department and juvenile court shall place the child with the following in order of preference:

- (1) Natural parents.
- (2) Extended family members.
- (3) Members of the same cultural heritage.
- (4) Persons with knowledge and appreciation of the cultural heritage of the child.

SECTION 5. ORS 419B.023 is amended to read:

419B.023. (1) As used in this section:

(a) "Designated medical professional" means the person described in ORS 418.747 (9) or the person's designee.

(b) "Suspicious physical injury" includes, but is not limited to:

- (A) Burns or scalds;
- (B) Extensive bruising or abrasions on any part of the body;
- (C) Bruising, swelling or abrasions on the head, neck or face;
- (D) Fractures of any bone in a child under the age of three;
- (E) Multiple fractures in a child of any age;
- (F) Dislocations, soft tissue swelling or moderate to severe cuts;
- (G) Loss of the ability to walk or move normally according to the child's developmental ability;
- (H) Unconsciousness or difficulty maintaining consciousness;
- (I) Multiple injuries of different types;
- (J) Injuries causing serious or protracted disfigurement or loss or impairment of the function of any bodily organ; or
- (K) Any other injury that threatens the physical well-being of the child.

(2)(a) If a person conducting an investigation under ORS 419B.020 observes a child who has suffered suspicious physical injury and the person is certain or has a reasonable suspicion that the injury is or may be the result of abuse, the person shall, in accordance with the protocols and procedures of the county multidisciplinary child abuse team described in ORS 418.747:

[(a)] (A) Immediately photograph or cause to have photographed the suspicious physical injuries in accordance with ORS 419B.028; and

[(b)] (B) Ensure that a designated medical professional conducts a medical assessment within 48 hours, or sooner if dictated by the child's medical needs.

(b) Notwithstanding ORS 419B.150, the person described in paragraph (a) of this subsection may take the child into protective custody, without a court order, only for the period of time necessary to ensure compliance with the requirements of this subsection.

(3) The requirement of subsection (2) of this section shall apply:

(a) Each time suspicious physical injury is observed by Department of Human Services or law enforcement personnel:

(A) During the investigation of a new allegation of abuse; or

(B) If the injury was not previously observed by a person conducting an investigation under ORS 419B.020; and

(b) Regardless of whether the child has previously been photographed or assessed during an investigation of an allegation of abuse.

(4)(a) Department or law enforcement personnel shall make a reasonable effort to locate a designated medical professional. If after reasonable efforts a designated medical professional is not

available to conduct a medical assessment within 48 hours, the child shall be evaluated by an available physician, a physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or a nurse practitioner licensed under ORS 678.375 to 678.390.

(b) If the child is evaluated by a health care provider as defined in ORS 127.505 other than a designated medical professional, the health care provider shall make photographs, clinical notes, diagnostic and testing results and any other relevant materials available to the designated medical professional for consultation within 72 hours following evaluation of the child.

(c) The person conducting the medical assessment may consult with and obtain records from the child's health care provider under ORS 419B.050.

(5) Nothing in this section prevents a person conducting a child abuse investigation from seeking immediate medical treatment from a hospital emergency room or other medical provider for a child who is physically injured or otherwise in need of immediate medical care.

(6) If the child described in subsection (2) of this section is less than five years of age, the designated medical professional may, within 14 days, refer the child for a screening for early intervention services or early childhood special education, as those terms are defined in ORS 343.035. The referral may not indicate the child is subject to a child abuse investigation unless written consent is obtained from the child's parent authorizing such disclosure. If the child is already receiving those services, or is enrolled in the Head Start program, a person involved in the delivery of those services to the child shall be invited to participate in the county multidisciplinary child abuse team's review of the case and shall be provided with paid time to do so by the person's employer.

(7) Nothing in this section limits the rights provided to minors in ORS chapter 109 or the ability of a minor to refuse to consent to the medical assessment described in this section.

SECTION 6. ORS 419B.021 is amended to read:

419B.021. (1) Except as provided in subsection (2) of this section, the following persons must possess a bachelor's, master's or doctoral degree from an accredited institution of higher education:

(a) A person who conducts an investigation under ORS 419B.020; and

(b) A person who makes the following determinations:

(A) That a child must be taken into protective custody under ORS 419B.150 **or section 2 of this 2019 Act**; and

(B) That the child should not be released to the child's parent or other responsible person under ORS 419B.165 (2).

(2) Subsection (1) of this section does not apply to:

(a) A person who was employed or otherwise engaged by the Department of Human Services for the purpose of conducting investigations or making determinations before January 1, 2012, provided the person's employment or engagement for these purposes has been continuous and uninterrupted.

(b) A law enforcement official as that term is defined in ORS 147.005.

SECTION 6a. If House Bill 2033 becomes law, section 6 of this 2019 Act (amending ORS 419B.021) is repealed and ORS 419B.021, as amended by section 1, chapter 153, Oregon Laws 2019 (Enrolled House Bill 2033), is amended to read:

419B.021. (1) Except as provided in subsection (2) of this section, a person who conducts an investigation under ORS 419B.020, makes a determination that a child must be taken into protective custody under ORS 419B.150 **or section 2 of this 2019 Act** or makes a determination that a child should not be released to the child's parent or other responsible person under ORS 419B.165 (2) must have:

(a) At least a bachelor's degree in:

(A) Human services or a field related to human services; or

(B) A field other than one described in subparagraph (A) of this paragraph, if the Department of Human Services determines by rule that the coursework completed by the person is equivalent to a bachelor's degree in human services and that the person has sufficient training in providing human services; or

(b) An associate degree with additional training or additional certification in human services or a field related to human services, as determined by the department by rule.

(2) Subsection (1) of this section does not apply to a law enforcement official as defined in ORS 147.005.

SECTION 7. ORS 419B.055 is amended to read:

419B.055. (1) The Attorney General may bring an action in a circuit court for a citation or a stalking protective order under ORS 30.866 or 163.730 to 163.750 on behalf of an employee of the Department of Human Services who, because of being involved in the conduct described in subsection (3) of this section, is the subject of repeated and unwanted contact by another person that causes alarm or coercion to the employee. The Attorney General's responsibility under this subsection is limited to circumstances in which an employee of the department submits a written request to the Attorney General that:

(a) Has been approved in writing by the Director of Human Services or the director's designee;

(b) Sets forth sufficient facts and evidence, the truth of which has been affirmed by the employee; and

(c) Based solely upon the opinion of the Attorney General, is an action that is likely to succeed.

(2) The action brought under this section may not include a request for:

(a) Special and general damages, including damages for emotional distress;

(b) Economic or noneconomic damages;

(c) Punitive damages; or

(d) Attorney fees and costs.

(3) Departmental employees on whose behalf the citation or stalking protective order may be obtained under subsection (1) of this section include employees who:

(a) Conduct a child abuse investigation under ORS 419B.020;

(b) Make a determination that a child must be taken into protective custody under ORS 419B.150 **or section 2 of this 2019 Act**;

(c) Make a determination that a child should not be released to the child's parent or other responsible person under ORS 419B.165 (2); and

(d) Are involved in developing a case plan or making a placement decision for a child in the legal custody of the department.

SECTION 8. ORS 419B.100 is amended to read:

419B.100. (1) Except as otherwise provided in subsection (5) of this section and ORS 107.726, the juvenile court has exclusive original jurisdiction in any case involving a person who is under 18 years of age and:

(a) Who is beyond the control of the person's parents, guardian or other person having custody of the person;

(b) Whose behavior is such as to endanger the welfare of the person or of others;

(c) Whose condition or circumstances are such as to endanger the welfare of the person or of others;

(d) Who is dependent for care and support on a public or private child-caring agency that needs the services of the court in planning for the best interest of the person;

(e) Whose parents or any other person or persons having custody of the person have:

(A) Abandoned the person;

(B) Failed to provide the person with the care or education required by law;

(C) Subjected the person to cruelty, depravity or unexplained physical injury; or

(D) Failed to provide the person with the care, guidance and protection necessary for the physical, mental or emotional well-being of the person;

(f) Who *[has run away from the home of the person]* **is a runaway**;

(g) Who has filed a petition for emancipation pursuant to ORS 419B.550 to 419B.558; or

(h) Who is subject to an order entered under ORS 419C.411 (7)(a).

(2) The court shall have jurisdiction under subsection (1) of this section even though the child is receiving adequate care from the person having physical custody of the child.

(3) The provisions of subsection (1) of this section do not prevent a court of competent jurisdiction from entertaining a civil action or suit involving a child.

(4) The court does not have further jurisdiction as provided in subsection (1) of this section after a minor has been emancipated pursuant to ORS 419B.550 to 419B.558.

(5)(a) An Indian tribe has exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of the tribe, except where the jurisdiction is otherwise vested in the state by existing federal law.

(b) Upon the petition of either parent, the Indian custodian or the Indian child's tribe, the juvenile court, absent good cause to the contrary and absent objection by either parent, shall transfer a proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, to the jurisdiction of the tribe.

(c) The juvenile court shall give full faith and credit to the public acts, records and judicial proceedings of an Indian tribe applicable to an Indian child custody proceeding to the same extent that the juvenile court gives full faith and credit to the public acts, records and judicial proceedings of any other entity.

SECTION 9. ORS 419B.121 is amended to read:

419B.121. Notwithstanding ORS 419C.145, the court may order the detention of a child who resides in another state if the court finds probable cause to believe that the child [*has run away from home or from a placement*] **is a runaway**. If a child is ordered detained under this section, the court shall make such orders as are necessary to cause the child to be immediately returned to the child's state of residence.

SECTION 9a. If Senate Bill 924 becomes law, section 9 of this 2019 Act (amending ORS 419B.121) is repealed.

SECTION 10. ORS 419B.185 is amended to read:

419B.185. (1) When a child or ward is taken, or is about to be taken, into protective custody pursuant to ORS 419B.150, 419B.160, 419B.165, 419B.168 and 419B.171 **or section 2 of this 2019 Act** and placed in detention or shelter care, a parent, child or ward shall be given the opportunity to present evidence to the court at the hearings specified in ORS 419B.183, and at any subsequent review hearing, that the child or ward can be returned home without further danger of suffering physical injury or emotional harm, endangering or harming others, or not remaining within the reach of the court process prior to adjudication. At the hearing:

(a) The court shall make written findings as to whether the Department of Human Services has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child or ward from the home and to make it possible for the child or ward to safely return home. When the court finds that no services were provided but that reasonable services would not have eliminated the need for protective custody, the court shall consider the department to have made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for protective custody. The court shall include in the written findings a brief description of the preventive and reunification efforts made by the department.

(b) In determining whether a child or ward shall be removed or continued out of home, the court shall consider whether the provision of reasonable services can prevent or eliminate the need to separate the family.

(c) In determining whether the department has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child or ward from the home and to make it possible for the child or ward to safely return home, the court shall consider the child or ward's health and safety the paramount concerns.

(d) The court shall make a written finding in every order of removal that describes why it is in the best interests of the child or ward that the child or ward be removed from the home or continued in care.

(e) When the court determines that a child or ward shall be removed from the home or continued in care, the court shall make written findings whether the department made diligent efforts pursuant to ORS 419B.192. The court shall include in its written findings a brief description of the efforts made by the department.

(f) The court shall determine whether the child or ward is an Indian child as defined in ORS 419A.004 or in the applicable State-Tribal Indian Child Welfare Agreement.

(g) The court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant to the determinations and findings required under this section. As used in this paragraph, "relevant evidence" has the meaning given that term in ORS 40.150.

(2) To aid the court in making the written findings required by subsection (1)(a), (d) and (e) of this section, the department shall present written documentation to the court outlining:

(a) The efforts made to prevent taking the child or ward into protective custody and to provide services to make it possible for the child or ward to safely return home;

(b) The efforts the department made pursuant to ORS 419B.192; and

(c) Why protective custody is in the best interests of the child or ward.

SECTION 11. ORS 419C.156 is amended to read:

419C.156. Notwithstanding ORS 419C.145 (1) and (2), the court may order the detention of a youth who resides in another state if the court makes written findings that there is probable cause to believe that the youth [*has run away from home or from a placement*] **is a runaway** and that describe why it is in the best interests of the youth to be placed in detention. If a youth is ordered detained under this section, the court shall make such orders as are necessary to cause the youth to be immediately returned to the youth's state of residence.

SECTION 11a. If Senate Bill 924 becomes law, section 11 of this 2019 Act (amending ORS 419C.156) is repealed.

Passed by House June 20, 2019

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 29, 2019

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Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

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Bev Clarno, Secretary of State