

SB 792-2
(LC 3350)
6/16/21 (AG/ps)

Requested by HOUSE COMMITTEE ON RULES (at the request of Representative Barbara Smith Warner)

**PROPOSED AMENDMENTS TO RESOLVE CONFLICTS TO
SENATE BILL 792**

1 On page 1 of the printed bill, line 2, after “children;” delete the rest of
2 the line and insert “creating new provisions; amending ORS 30.298 and
3 192.355; repealing section 4, chapter __, Oregon Laws 2021 (Enrolled Senate
4 Bill 193); and declaring an emergency.”.

5 On page 8, after line 30, insert:

6 **“SECTION 1a. If both Senate Bill 193 and Senate Bill 436 become**
7 **law, section 4, chapter __, Oregon Laws 2021 (Enrolled Senate Bill 193)**
8 **(amending ORS 30.298), is repealed and ORS 30.298, as amended by**
9 **section 8, chapter __, Oregon Laws 2021 (Enrolled Senate Bill 436), is**
10 **amended to read:**

11 “30.298. (1) Except as otherwise provided in this section, the Department
12 of Human Services is liable, without regard to fault, for injury to the person
13 of foster parents or damage to the property of foster parents caused by a
14 foster child if the foster child is residing in:

15 “(a) A foster home that is maintained by the foster parents and that has
16 been certified by the department under the provisions of ORS 418.625 to
17 418.645;

18 “(b) An approved home that is maintained by the foster parents and that
19 is receiving payment from the department under the provisions of ORS
20 418.027 or under the provisions of ORS 420.810 and 420.815; or

21 “(c) A developmental disability child foster home that has been certified

1 by the department under the provisions of ORS 443.830 and 443.835.

2 “(2) Except as otherwise provided in this section, the Oregon Youth Au-
3 thority is liable, without regard to fault, for injury to the person of foster
4 parents or damage to the property of foster parents caused by an adjudicated
5 youth if the adjudicated youth resides in an adjudicated youth foster home
6 that is maintained by the foster parents and that has been certified by the
7 authority under the provisions of ORS 420.888 to 420.892.

8 “(3) Except as otherwise provided in this section, the liability of the de-
9 partment and of the authority under this section is subject to the same re-
10 quirements and limitations provided in ORS 30.260 to 30.300, and a claim
11 under this section shall be treated as a claim for damages within the scope
12 of ORS 30.260 to 30.300 for the purposes of ORS 278.120.

13 “(4) Notwithstanding ORS 30.260 to 30.300:

14 “(a) In no event shall the liability of the department or the authority
15 under this section exceed \$5,000 for any number of claims arising out of a
16 single occurrence;

17 “(b) The liability of the department and the authority under this section
18 is limited to economic damages, and in no event shall the department or the
19 authority be liable for noneconomic damages;

20 “(c) The department and the authority are liable under this section only
21 to the extent the loss is not covered by other insurance; and

22 “(d) No claim shall be allowed under this section unless written notice
23 of the claim is delivered to the Oregon Department of Administrative Ser-
24 vices within 90 days after the alleged loss or injury.

25 “(5) The department and the authority are not liable under this section
26 for:

27 “(a) Damage to or destruction of currency, securities or any other intan-
28 gible property;

29 “(b) The unexplained disappearance of any property; or

30 “(c) Loss or damage that is due to wear and tear, inherent vice or gradual

1 deterioration.

2 “(6) In no event does the liability of the department or the authority un-
3 der this section for damage to property exceed the difference between the fair
4 market value of the property immediately before its damage or destruction
5 and its fair market value immediately thereafter. The department and the
6 authority are not liable for the costs of any betterments to the property that
7 may be required by code, statute or other law as a condition of repair, re-
8 placement or reconstruction.

9 “(7) The liability imposed under this section is in addition to that imposed
10 for the intentional torts of a foster child or adjudicated youth under ORS
11 30.297, but any amounts paid under this section shall reduce any recovery
12 that may be made under ORS 30.297.

13 “(8) For the purposes of this section:

14 “(a) ‘Adjudicated youth’ has the meaning given **that term** in ORS
15 419A.004.

16 “(b) ‘Authority’ means the Oregon Youth Authority.

17 “(c) ‘Department’ means the Department of Human Services.

18 “(d) ‘Economic damages’ and ‘noneconomic damages’ have [*those meanings*
19 *given in ORS 31.710*] **the meanings given those terms in ORS 31.705.**

20 “(e) ‘Foster child’ has [*that*] **the meaning given that term** in ORS 30.297.

21 **SECTION 1b. If both Senate Bill 193 and Senate Bill 436 become law,**
22 **the amendments to ORS 30.298 by section 1a of this 2021 Act become**
23 **operative on January 1, 2022.”.**

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