

House Bill 2439

Sponsored by Representative SCHARF (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**.

Modifies criteria for granting motion for intervention by person having caregiver relationship with child in juvenile dependency proceeding.

A BILL FOR AN ACT

1
2 Relating to persons having caregiver relationship with child in juvenile dependency proceeding;
3 creating new provisions; and amending ORS 419B.116.

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) of this section, may be granted such relief as the court determines to be appropriate and in the
 20 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;

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

28 (d) 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;

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
 44 or court order seeking or granting limited participation when the right of limited participation
 45 sought and granted would be for the purpose of establishing a community guardianship under ORS

1 419B.371.

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

4 (11)(a) At any time, a person granted intervention or a person granted rights of limited partic-
5 ipation may move to be considered a temporary placement or visitation resource for the child or
6 ward.

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

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

12 **SECTION 2. The amendments to ORS 419B.116 by section 1 of this 2023 Act apply to**
13 **motions for intervention filed on or after the effective date of this 2023 Act.**

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