

HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 865

By COMMITTEE ON EARLY CHILDHOOD AND HUMAN SERVICES

May 17

- 1 On page 1 of the printed A-engrossed bill, line 2, after “419B.192” insert a comma.
2 Delete line 3 and insert “419B.402 and 419B.506; and declaring an emergency.”.
3 Delete lines 5 through 21 and delete page 2.
4 On page 3, delete lines 1 through 32 and insert:
5 **“SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 419B.**
6 **“SECTION 2. (1) If the Department of Human Services places a child or ward in substi-**
7 **tute care, the department shall immediately begin searching for potential substitute care**
8 **placements from among the relatives of the child or ward.**
9 **“(2) If the department places a child or ward with a person who is not the child’s relative,**
10 **when conducting the search under this section, the department shall provide written notifi-**
11 **cation to the parents and any relative identified by the department as a potential placement**
12 **resource or prospective adoptive parent that the nonrelative foster parent will have equal**
13 **status or priority under ORS 109.270 and 419B.192 as a prospective adoptive parent if the**
14 **nonrelative foster parent cares for the child or ward, or at least one sibling of the child or**
15 **ward, for at least 12 cumulative months or, if the child, ward or sibling is younger than two**
16 **years of age, for one-half of the child’s, ward’s or sibling’s life, calculated cumulatively.**
17 **“SECTION 3. ORS 109.270 is amended to read:**
18 **“109.270. (1) Rules adopted by the Department of Human Services for home studies and place-**
19 **ment reports under ORS 109.276 (7) and (8) must, at a minimum, require the department to:**
20 **“(a) Consider each prospective adoptive parent on the basis of the prospective adoptive parent’s**
21 **ability to meet the individual needs of the child for safety, attachment and well-being;**
22 **“(b) Safeguard a child’s rights under ORS 419B.090 (3) by [*considering a child’s relatives and***
23 ***current caretaker as having equal status and priority as prospective adoptive parents in the consider-***
24 ***ation of each of the relative’s and current caretaker’s respective abilities to meet the child’s individual***
25 ***needs for safety, attachment and well-being; and], except as provided in ORS 419B.654 (2), consid-***
26 **ering the current caretaker and relatives to have equal status and priority as prospective**
27 **adoptive parents under ORS 419B.192;**
28 **“(c) Give a child’s relatives and current caretaker a greater weight in the consideration of**
29 **suitability as prospective adoptive parents as compared to the department’s consideration of other**
30 **persons seeking to adopt a child who are not relatives or current caretakers[.]; and**
31 **“(d) If an adoption is disrupted, consider any relative or current caretaker who was not**
32 **initially selected by the department as the prospective adoptive parent as an adoptive re-**
33 **source.**
34 **“(2) For purposes of this section, ‘current caretaker’ has the meaning given that term in ORS**
35 **419A.004.**

1 “**SECTION 4.** ORS 419B.192 is amended to read:

2 “419B.192. (1) **As used in this section:**

3 “(a) **‘Caregiver relationship’ has the meaning given that term in ORS 419B.116.**

4 “(b) **‘Placement’ includes adoptive placement of a child or ward, selection of a guardian**
5 **for a child or ward or placement or continuation of placement of a child or ward in substitute**
6 **care.**

7 “[(1)] (2) If the court finds that a child or ward is in need of placement [*or continuation in sub-*
8 *stitute care*], there shall be a preference given to placement of the child or ward with relatives, **with**
9 **current caretakers** and **with** persons who have a caregiver relationship with the child or ward
10 [*as defined in ORS 419B.116*]. The Department of Human Services shall make diligent efforts to place
11 the child or ward with such persons and shall report to the court the efforts made by the department
12 to effectuate that placement.

13 “[(2)] (3) If a child or ward in need of placement [*or continuation in substitute care*] has a sibling
14 also in need of placement [*or continuation in substitute care*], the department shall make diligent ef-
15 ferts to place the siblings together and shall report to the court the efforts made by the department
16 to carry out the placement, unless the court finds that placement of the siblings together is not in
17 the best interests of the child or the ward or the child’s or the ward’s sibling.

18 “[(3)] (4) In attempting to place the child or ward pursuant to subsections [(1) and] (2) **and (3)**
19 of this section, the department shall consider[, *but not be limited to considering,*] the following:

20 “(a) The ability of the person being considered to provide safety for the child or ward, including
21 a willingness to cooperate with any restrictions placed on contact between the child or ward and
22 others, and to prevent anyone from influencing the child or ward in regard to the allegations of the
23 case;

24 “(b) The ability of the person being considered to support the efforts of the department to im-
25 plement the permanent plan for the child or ward;

26 “(c) The ability of the person being considered to meet the child or ward’s physical, emotional
27 and educational needs, including the child or ward’s need to continue in the same school or educa-
28 tional placement;

29 “(d) **The ability of the person being considered to maintain safe, long-term contact with**
30 **siblings, relatives and caregivers known to the child or ward and others with whom the child**
31 **or ward has developed an emotional attachment;**

32 “[(d)] (e) Which person has the closest existing personal relationship with the child or ward if
33 more than one person requests to have the child or ward placed with them pursuant to this section;
34 and

35 “[(e)] (f) The ability of the person being considered to provide a placement for the child’s or
36 ward’s sibling who is also in need of placement or continuation in substitute care.

37 “[(4)] (5) When the court is required to make findings regarding the department’s diligent efforts
38 to place a child or ward with relatives, **current caretakers** or persons with a caregiver relation-
39 ship under subsection [(1)] (2) of this section, and the court determines that, contrary to the place-
40 ment decision of the department, placement with a relative, **current caretaker or caregiver** is not
41 in the best interest of the child or ward under ORS 419B.349, the court shall make written findings
42 setting forth the reasons why the court finds that placement of the child or ward with an available
43 relative, **current caretaker or caregiver** is not in the best interest of the child.

44 “[(5)] (6) Notwithstanding subsections [(1) to (4)] (2) **to (5)** of this section, in cases where there
45 is reason to know, as described in ORS 419B.636, the child or ward is an Indian child, the depart-

1 ment shall make diligent efforts to place the child or ward according to the placement preferences
2 described in ORS 419B.654.

3 **“(7) The department may not move a child or ward who is in substitute care for the sole
4 purpose of preventing the establishment of a caregiver relationship or a current caretaker
5 relationship.”.**

6 On page 4, delete lines 5 through 14 and insert:

7 **“SECTION 6.** ORS 419B.506 is amended to read:

8 **“419B.506.** The rights of the parent or parents may be terminated as provided in ORS 419B.500
9 if the court finds that the parent or parents have failed or neglected without reasonable and lawful
10 cause to provide for the basic physical and psychological needs of the child or ward for six months
11 prior to the filing of a petition. In determining such failure or neglect, the court shall disregard any
12 incidental or minimal expressions of concern or support and shall consider but is not limited to one
13 or more of the following:

14 **“(1)** Failure to provide care [*or pay a reasonable portion of substitute physical care and mainte-*
15 *nance if custody is lodged with others*].

16 **“(2)** Failure to maintain regular visitation or other contact with the child or ward that was de-
17 signed and implemented in a plan to reunite the child or ward with the parent.

18 **“(3)** Failure to contact or communicate with the child or ward or with the custodian of the child
19 or ward. In making this determination, the court may disregard incidental visitations, communi-
20 cations or contributions.

21 **“SECTION 7.** (1) **Section 2 of this 2023 Act and the amendments to ORS 109.270 and
22 419B.192 by sections 3 and 4 of this 2023 Act apply to any placement decision made on or after
23 the effective date of this 2023 Act and to any appeal of a placement decision that is under
24 consideration on the effective date of this 2023 Act.**

25 **“(2) The amendments to ORS 419B.402 and 419B.506 by sections 5 and 6 of this 2023 Act
26 apply to matters involving moneys for support that are unpaid or accruing before, on or after
27 the effective date of this 2023 Act.**

28 **“SECTION 8.** This 2023 Act being necessary for the immediate preservation of the public
29 peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect
30 on its passage.”.

31
