Senate Bill 865
Sponsored by Senator GELSER BLOUIN

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.

Directs Department of Human Services to begin search for relative placement resources immediately upon child or ward entering substitute care. Directs department to take into consideration parent's objection to department's contacting or placing child or ward with certain relatives. Directs department to provide notice to parents and relative placement resources regarding current caretaker priority status if child or ward remains in substitute care for at least 12 months.

Modifies direction to department regarding home studies and placement reports to provide that current caretaker in specified circumstances is considered to have priority as guardian, potential placement resource or prospective adoptive parent. Prohibits department from moving child or ward to prevent person from establishing current caretaker relationship or caregiver relationship with child or ward.

Declares emergency, effective on passage.

A BILL FOR AN ACT
Relating to children in substitute care; creating new provisions; amending ORS 109.270 and 419B.192; and declaring an emergency.

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

SECTION 1. Section 2 of this 2023 Act is added to and made a part of ORS chapter 419B.

SECTION 2. (1) If the Department of Human Services places a child or ward in substitute care, the department shall immediately begin searching for potential substitute care placements from among the relatives of the child or ward.

(2) When conducting the search under this section, the department shall:

(a) Involve the parents of the child or ward in the search;

(b) Provide each parent with the opportunity to identify any relatives the parent objects to the department contacting or whom the parent objects to the department considering as a potential substitute care placement resource or prospective adoptive parent;

(c) Take into consideration a parent's objections under paragraph (b) of this subsection before contacting the relatives of the child or ward; and

(d) Provide written notification to the parents and any relative identified by the department as a potential placement resource or prospective adoptive parent that, if the child or ward continues in substitute care for at least 12 months, the current caretaker of the child or ward may have priority under ORS 109.270 and 419B.192 as a prospective adoptive parent.

SECTION 3. ORS 109.270 is amended to read:

109.270. (1) Rules adopted by the Department of Human Services for home studies and placement reports under ORS 109.276 (7) and (8) must, at a minimum, require the department to:

(a) Consider each prospective adoptive parent on the basis of the prospective adoptive parent's ability to meet the individual needs of the child for safety, attachment and well-being;

(b) Safeguard a child's rights under ORS 419B.090 (3) by [considering a child's relatives and current caretaker as having equal status and priority as prospective adoptive parents in the consider-
ation of each of the relative’s and current caretaker’s respective abilities to meet the child’s individual needs for safety, attachment and well-being; and, except as provided in ORS 419B.654 (2):

(A) If the child has been in the care of the current caretaker for the 24 months immediately preceding the date the child or ward becomes eligible for adoption, considering the current caretaker to have priority status as a prospective adoptive parent; or

(B) If the child or ward has not been in the care of the current caretaker for the 24 months immediately preceding the date the child becomes eligible for adoption:

(i) If the child or ward is under 30 months of age, considering a relative known to the child to have priority status; or

(ii) If the child is at least 30 months of age, considering the current caretaker and relatives known to the child or ward to have equal status and priority as prospective adoptive parents under ORS 419B.192;

(c) Give a child’s relatives and current caretaker and relatives known to the child or ward a greater weight in the consideration of suitability as prospective adoptive parents compared to the department’s consideration of other persons seeking to adopt a child who are not relatives known to the child or ward or current caretakers; and

(d) If an adoption is disrupted, consider any relative or current caretaker who was not initially selected by the department as the prospective adoptive parent to be considered as an adoptive resource.

(2) For purposes of this section, “current caretaker” has the meaning given that term in ORS 419A.004.

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

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

(a) “Caregiver relationship” has the meaning given that term in ORS 419B.116.

(b) “Placement” includes adoptive placement of a child or ward, selection of a guardian for a child or ward or placement or continuation of placement of a child or ward in substitute care.

(2) If the court finds that a child or ward in need of placement has a sibling also in need of placement, the department shall make diligent efforts to place the siblings together and shall report to the court the efforts made by the department to effectuate that placement.

(3) If a child or ward in need of placement has a sibling also in need of placement, the department shall make diligent efforts to place the siblings together and shall report to the court the efforts made by the department to carry out the placement, unless the court finds that placement of the siblings together is not in the best interests of the child or the ward or the child’s or the ward’s sibling.

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

(a) The ability of the person being considered to provide safety for the child or ward, including a willingness to cooperate with any restrictions placed on contact between the child or ward and others, and to prevent anyone from influencing the child or ward in regard to the allegations of the case;
(b) The ability of the person being considered to support the efforts of the department to implement the permanent plan for the child or ward;

(c) The ability of the person being considered to meet the child or ward's physical, emotional and educational needs, including the child or ward's need to continue in the same school or educational placement;

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

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

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

[(4)] (5) When the court is required to make findings regarding the department's diligent efforts to place a child or ward with relatives or persons with a caregiver relationship under subsection [(I)] (2) of this section, and the court determines that, contrary to the placement decision of the department, placement with a relative or caregiver is not in the best interest of the child or ward under ORS 419B.349, the court shall make written findings setting forth the reasons why the court finds that placement of the child or ward with an available relative or caregiver is not in the best interest of the child.

[(5)] (6) Notwithstanding subsections [(I) to (4)] [(2) to (5)] of this section, in cases where there is reason to know, as described in ORS 419B.636, the child or ward is an Indian child, the department shall make diligent efforts to place the child or ward according to the placement preferences described in ORS 419B.654.

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

SECTION 5. Section 2 of this 2023 Act and the amendments to ORS 109.270 and 419B.192 by sections 3 and 4 of this 2023 Act apply to any placement decision made on or after the effective date of this 2023 Act and to any appeal of a placement decision that is under consideration on the effective date of this 2023 Act.

SECTION 6. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.