

Requested by Senator GELSER BLOUIN

**PROPOSED AMENDMENTS TO
A-ENGROSSED SENATE BILL 865**

1 On page 1 of the printed A-engrossed bill, line 2, after “419B.192” insert
2 a comma.

3 Delete line 3 and insert “419B.402 and 419B.506; and declaring an emer-
4 gency.”.

5 Delete lines 5 through 21 and delete page 2.

6 On page 3, delete lines 1 through 32 and insert:

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

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

13 **“(2) If the department places a child or ward with a person who is**
14 **not the child’s relative, when conducting the search under this sec-**
15 **tion, the department shall provide written notification to the parents**
16 **and any relative identified by the department as a potential placement**
17 **resource or prospective adoptive parent that the nonrelative foster**
18 **parent will have equal status or priority under ORS 109.270 and**
19 **419B.192 as a prospective adoptive parent if the nonrelative foster**
20 **parent cares for the child or ward, or at least one sibling of the child**
21 **or ward, for at least 12 cumulative months or, if the child, ward or**

1 **sibling is younger than two years of age, for one-half of the child’s,**
2 **ward’s or sibling’s life, calculated cumulatively.**

3 **“SECTION 3.** ORS 109.270 is amended to read:

4 “109.270. (1) Rules adopted by the Department of Human Services for
5 home studies and placement reports under ORS 109.276 (7) and (8) must, at
6 a minimum, require the department to:

7 “(a) Consider each prospective adoptive parent on the basis of the pro-
8 spective adoptive parent’s ability to meet the individual needs of the child
9 for safety, attachment and well-being;

10 “(b) Safeguard a child’s rights under ORS 419B.090 (3) by [*considering a*
11 *child’s relatives and current caretaker as having equal status and priority as*
12 *prospective adoptive parents in the consideration of each of the relative’s and*
13 *current caretaker’s respective abilities to meet the child’s individual needs for*
14 *safety, attachment and well-being; and*], **except as provided in ORS 419B.654**
15 **(2), considering the current caretaker and relatives to have equal sta-**
16 **tus and priority as prospective adoptive parents under ORS 419B.192;**

17 “(c) Give a child’s relatives and current caretaker a greater weight in the
18 consideration of suitability as prospective adoptive parents as compared to
19 the department’s consideration of other persons seeking to adopt a child who
20 are not relatives or current caretakers[.]; **and**

21 **“(d) If an adoption is disrupted, consider any relative or current**
22 **caretaker who was not initially selected by the department as the**
23 **prospective adoptive parent as an adoptive resource.**

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

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

27 **“419B.192. (1) As used in this section:**

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

30 **“(b) ‘Placement’ includes adoptive placement of a child or ward,**

1 **selection of a guardian for a child or ward or placement or continua-**
2 **tion of placement of a child or ward in substitute care.**

3 “[~~(1)~~] **(2)** If the court finds that a child or ward is in need of placement
4 [*or continuation in substitute care*], there shall be a preference given to
5 placement of the child or ward with relatives, **with current caretakers** and
6 **with** persons who have a caregiver relationship with the child or ward [*as*
7 *defined in ORS 419B.116*]. The Department of Human Services shall make
8 diligent efforts to place the child or ward with such persons and shall report
9 to the court the efforts made by the department to effectuate that placement.

10 “[~~(2)~~] **(3)** If a child or ward in need of placement [*or continuation in sub-*
11 *stitute care*] has a sibling also in need of placement [*or continuation in sub-*
12 *stitute care*], the department shall make diligent efforts to place the siblings
13 together and shall report to the court the efforts made by the department to
14 carry out the placement, unless the court finds that placement of the siblings
15 together is not in the best interests of the child or the ward or the child’s
16 or the ward’s sibling.

17 “[~~(3)~~] **(4)** In attempting to place the child or ward pursuant to subsections
18 [~~(1)~~ and] **(2) and (3)** of this section, the department shall consider[, *but not*
19 *be limited to considering,*] the following:

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

25 “(b) The ability of the person being considered to support the efforts of
26 the department to implement the permanent plan for the child or ward;

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

30 “**(d) The ability of the person being considered to maintain safe,**

1 **long-term contact with siblings, relatives and caregivers known to the**
2 **child or ward and others with whom the child or ward has developed**
3 **an emotional attachment;**

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

7 “[(e)] (f) The ability of the person being considered to provide a placement
8 for the child’s or ward’s sibling who is also in need of placement or contin-
9 uation in substitute care.

10 “[4] (5) When the court is required to make findings regarding the
11 department’s diligent efforts to place a child or ward with relatives, **current**
12 **caretakers** or persons with a caregiver relationship under subsection [(1)]
13 (2) of this section, and the court determines that, contrary to the placement
14 decision of the department, placement with a relative, **current caretaker**
15 **or caregiver** is not in the best interest of the child or ward under ORS
16 419B.349, the court shall make written findings setting forth the reasons why
17 the court finds that placement of the child or ward with an available
18 relative, **current caretaker or caregiver** is not in the best interest of the
19 child.

20 “[5] (6) Notwithstanding subsections [(1) to (4)] (2) to (5) of this section,
21 in cases where there is reason to know, as described in ORS 419B.636, the
22 child or ward is an Indian child, the department shall make diligent efforts
23 to place the child or ward according to the placement preferences described
24 in ORS 419B.654.

25 “(7) **The department may not move a child or ward who is in sub-**
26 **stitute care for the sole purpose of preventing the establishment of a**
27 **caregiver relationship or a current caretaker relationship.”.**

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

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

30 “419B.506. The rights of the parent or parents may be terminated as pro-

1 vided in ORS 419B.500 if the court finds that the parent or parents have
2 failed or neglected without reasonable and lawful cause to provide for the
3 basic physical and psychological needs of the child or ward for six months
4 prior to the filing of a petition. In determining such failure or neglect, the
5 court shall disregard any incidental or minimal expressions of concern or
6 support and shall consider but is not limited to one or more of the following:

7 “(1) Failure to provide care [*or pay a reasonable portion of substitute*
8 *physical care and maintenance if custody is lodged with others*].

9 “(2) Failure to maintain regular visitation or other contact with the child
10 or ward that was designed and implemented in a plan to reunite the child
11 or ward with the parent.

12 “(3) Failure to contact or communicate with the child or ward or with the
13 custodian of the child or ward. In making this determination, the court may
14 disregard incidental visitations, communications or contributions.

15 **“SECTION 7. (1) Section 2 of this 2023 Act and the amendments to**
16 **ORS 109.270 and 419B.192 by sections 3 and 4 of this 2023 Act apply to**
17 **any placement decision made on or after the effective date of this 2023**
18 **Act and to any appeal of a placement decision that is under consider-**
19 **ation on the effective date of this 2023 Act.**

20 **“(2) The amendments to ORS 419B.402 and 419B.506 by sections 5 and**
21 **6 of this 2023 Act apply to matters involving moneys for support that**
22 **are unpaid or accruing before, on or after the effective date of this 2023**
23 **Act.**

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

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