

Senate Bill 972

Sponsored by COMMITTEE ON HUMAN SERVICES

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**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act makes changes to who can say they have a "caregiver relationship" with a child and how they can intervene in a child welfare matter. (Flesch Readability Score: 60.0).

Modifies the definition of "caregiver relationship." Modifies the procedure for intervention in child welfare proceedings.

A BILL FOR AN ACT

1
2 Relating to intervention in juvenile dependency matters; amending ORS 419B.116.

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

4 **SECTION 1.** ORS 419B.116 is amended to read:

5 419B.116. (1)(a) As used in this section, "caregiver relationship" means a relationship between
6 a person and a child or ward:

7 (A) That has existed:

8 (i) For the 12 months immediately preceding the initiation of the dependency proceeding;

9 (ii) For at least six months during the dependency proceeding; or

10 (iii) For half of the child or ward's life if the child or ward is less than six months of age;

11 (B) In which the person had physical custody of the child or ward, **regularly provided 24-hour**
12 **care for the child or ward** or resided in the same household as the child or ward;

13 (C) In which the person provided the child or ward on a [*daily*] **regular** basis with the love,
14 nurturing and other necessities required to meet the child or ward's psychological and physical
15 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 **or for at least 24 cumulative 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) A motion for intervention under subsection (2) of this section must state:

28 [(a)] (A) The person's relationship to the child or ward and the person's involvement in the child
29 or ward's life;

30 [(b)] (B) The reason that intervention is sought;

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 [(c) (C) How the person's intervention is [*in the best interests of the child or ward;*] **consistent**
 2 **with the legal rights of the child or ward as described in ORS 419B.090 (3); and**

3 [*(d) Why the existing parties cannot adequately present the case; and*]

4 [(e) (D) What specific relief is being sought.

5 **(b) While a person's motion for intervention is pending, the court shall provide the per-**
 6 **son with notice of and an opportunity to be heard in any hearing on the motion.**

7 (5)(a) If a party wishes to oppose a motion for intervention, the party must file a written ob-
 8 jection to the motion stating the grounds for the objection no later than 21 days after the motion
 9 is filed.

10 (b) If no written objection is filed as provided in this [*paragraph*] **subsection**, the court may
 11 grant the motion **for intervention** without a hearing.

12 (c) Except as provided in paragraph [(b)] (d) of this subsection, if a written objection is filed
 13 as provided in this [*paragraph*] **subsection**, the court shall hold a hearing on the motion **for**
 14 **intervention.**

15 [(b)] (d) If a motion for intervention does not state a prima facie case as to the facts that must
 16 be proved under paragraph [(c)] (e) of this subsection, the court may deny the motion without a
 17 hearing.

18 [(c)] (e) If the court holds a hearing on the motion for intervention, the court may grant the
 19 motion for intervention if the person moving to intervene in the case proves by a preponderance of
 20 the evidence that:

21 (A) A caregiver relationship exists between the person and the child or ward;

22 (B) The intervention is [*in the best interests of the child or ward*] **consistent with the legal**
 23 **rights of the child or ward as described in ORS 419B.090 (3); and**

24 (C) [*The reason for intervention and*] The specific relief sought [*are*] **is** consistent with the best
 25 interests of the child or ward. [*; and*]

26 [(D) *The existing parties cannot adequately present the case.*]

27 **(f) The court may find that granting the relief sought under this subsection is consistent**
 28 **with the best interests of the child or ward regardless of whether there may be one or more**
 29 **alternative options available that are also in the best interests of the child or ward.**

30 (6) A person granted intervention is a party to the case and, except as provided in subsection
 31 (11) of this section, may be granted such relief as the court determines to be appropriate and in the
 32 best interests of the child or ward.

33 (7) A person who is not a party under ORS 419B.875 or a person who intends to file a motion
 34 for appointment as a community guardian under ORS 419B.371 may seek rights of limited partic-
 35 ipation by filing a written motion for limited participation in a juvenile court proceeding. Except
 36 as provided in subsection (9) of this section, the motion must state:

37 (a) The reason that limited participation is being sought;

38 (b) How the person's limited participation is in the best interests of the child or ward;

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

40 (d) The specific rights of limited participation that are being sought.

41 (8)(a) If a party wishes to oppose a motion filed under subsection (7) of this section, the party
 42 must file a written objection to the motion stating the grounds for the objection no later than 21
 43 days after the motion is filed. If no written objection is filed as provided in this paragraph, the court
 44 may grant the motion without a hearing.

45 (b) If a motion seeking rights of limited participation does not state a prima facie case as to the

1 facts that must be proved under paragraph (c) of this subsection, the court may deny the motion
2 without a hearing.

3 (c) If the court holds a hearing on the motion seeking rights of limited participation, the court
4 may grant the motion if the person seeking rights of limited participation proves by a preponderance
5 of the evidence that:

6 (A) The person's limited participation is in the best interests of the child or ward;

7 (B) The reason for limited participation and the specific rights sought are consistent with the
8 best interests of the child or ward; and

9 (C) The parties cannot adequately present the case.

10 (9) The requirements of subsections (7)(c) and (8)(c)(C) of this section do not apply to a motion
11 or court order seeking or granting limited participation when the right of limited participation
12 sought and granted would be for the purpose of establishing a community guardianship under ORS
13 419B.371.

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

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

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

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

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