

Senate Bill 815

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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 when DHS is a party in a dependency case. (Flesch Readability Score: 77.8).

Modifies juvenile dependency procedures regarding when the Department of Human Services is recognized as a party in a proceeding.

A BILL FOR AN ACT

1
2 Relating to the Department of Human Services as a party in dependency proceedings; amending ORS
3 419B.646 and 419B.875.

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

5 **SECTION 1.** ORS 419B.875 is amended to read:

6 419B.875. (1)(a) Parties to proceedings in the juvenile court under ORS 419B.100 and 419B.500
7 are:

8 (A) The child or ward;

9 (B) The parents or guardian of the child or ward;

10 (C) A putative father of the child or ward who has demonstrated a direct and significant com-
11 mitment to the child or ward by assuming, or attempting to assume, responsibilities normally asso-
12 ciated with parenthood, including but not limited to:

13 (i) Residing with the child or ward;

14 (ii) Contributing to the financial support of the child or ward; or

15 (iii) Establishing psychological ties with the child or ward;

16 (D) The state;

17 (E) The juvenile department;

18 (F) A court appointed special advocate, if appointed;

19 (G) The Department of Human Services [*or other child-caring agency if the department*] **if:**

20 **(i) The department is the petitioner;**

21 **(ii) The department** has taken the child or ward into protective custody [*or if the department*
22 *or agency has temporary custody of the child or ward*];

23 **(iii) The court has granted the department temporary custody of the child under ORS**
24 **419B.809 (5); or**

25 **(iv) The ward has been committed to the legal custody of the department for care,**
26 **placement and supervision under ORS 419B.337;**

27 **(H) A child-caring agency if the agency has temporary custody of the child or ward; and**

28 [*H*] **(I) If the child or ward is an Indian child:**

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 (i) The Indian child's tribe; and

2 (ii) The Indian child's Indian custodian.

3 (b) An intervenor who is granted intervention under ORS 419B.116 is a party to a proceeding
4 under ORS 419B.100. An intervenor under this paragraph is not a party to a proceeding under ORS
5 419B.500.

6 (c) If an Indian child is a member of or is eligible for membership in more than one tribe, the
7 court may, in its discretion, permit a tribe, in addition to the Indian child's tribe, to participate in
8 a proceeding under this chapter involving the Indian child in an advisory capacity or as a party.

9 (2) The rights of the parties include, but are not limited to:

10 (a) The right to notice of the proceeding and copies of the petitions, answers, motions and other
11 papers;

12 (b) The right to appear with counsel and, except for intervenors under subsection (1)(b) of this
13 section, to have counsel appointed as otherwise provided by law;

14 (c) The right to call witnesses, cross-examine witnesses and participate in hearings;

15 (d) The right of appeal; and

16 (e) The right to request a hearing.

17 (3) A putative father who satisfies the criteria set out in subsection (1)(a)(C) of this section shall
18 be treated as a parent, as that term is used in this chapter and ORS chapters 419A and 419C, until
19 the court confirms his parentage or finds that he is not the legal or biological parent of the child
20 or ward.

21 (4) If no appeal from the judgment or order is pending, a putative father whom a court of com-
22 petent jurisdiction has found not to be the child or ward's legal or biological parent or who has filed
23 a petition for filiation that was dismissed is not a party under subsection (1) of this section.

24 (5)(a) A person granted rights of limited participation under ORS 419B.116 is not a party to a
25 proceeding under ORS 419B.100 or 419B.500 but has only those rights specified in the order granting
26 rights of limited participation.

27 (b) Persons moving for or granted rights of limited participation are not entitled to appointed
28 counsel but may appear with retained counsel.

29 (6) If a foster parent, preadoptive parent or relative is currently providing care for a child or
30 ward, the Department of Human Services shall give the foster parent, preadoptive parent or relative
31 notice of a proceeding concerning the child or ward. A foster parent, preadoptive parent or relative
32 providing care for a child or ward has the right to be heard at the proceeding. Except when allowed
33 to intervene, the foster parent, preadoptive parent or relative providing care for the child or ward
34 is not considered a party to the juvenile court proceeding solely because of notice and the right to
35 be heard at the proceeding.

36 (7)(a) The Department of Human Services shall make diligent efforts to identify and obtain
37 contact information for the grandparents of a child or ward committed to the department's custody.
38 Except as provided in paragraph (b) of this subsection, when the department knows the identity of
39 and has contact information for a grandparent, the department shall give the grandparent notice of
40 a hearing concerning the child or ward. Upon a showing of good cause, the court may relieve the
41 department of its responsibility to provide notice under this paragraph.

42 (b) If a grandparent of a child or ward is present at a hearing concerning the child or ward, and
43 the court informs the grandparent of the date and time of a future hearing, the department is not
44 required to give notice of the future hearing to the grandparent.

45 (c) If a grandparent is present at a hearing concerning a child or ward, the court shall give the

1 grandparent an opportunity to be heard.

2 (d) The court’s orders or judgments entered in proceedings under ORS 419B.185, 419B.310,
 3 419B.325, 419B.449, 419B.476 and 419B.500 must include findings of the court as to whether the
 4 grandparent had notice of the hearing, attended the hearing and had an opportunity to be heard.

5 (e) Notwithstanding the provisions of this subsection, a grandparent is not a party to the juve-
 6 nile court proceeding unless the grandparent has been granted rights of intervention under ORS
 7 419B.116.

8 (f) As used in this subsection, “grandparent” means the legal parent of the child’s or ward’s le-
 9 gal parent, regardless of whether the parental rights of the child’s or ward’s legal parent have been
 10 terminated under ORS 419B.500 to 419B.524.

11 (8) Interpreters for parties and persons granted rights of limited participation shall be appointed
 12 in the manner specified by ORS 45.275 and 45.285.

13 **SECTION 2.** ORS 419B.646 is amended to read:

14 419B.646. (1) Notwithstanding ORS 9.160 and 9.320, a tribe that is a party to a proceeding under
 15 ORS 419B.875 [(1)(a)(H)] **(1)(a)(I)** may be represented by any individual, regardless of whether the
 16 individual is licensed to practice law.

17 (2) An attorney who is not barred from practicing law in this state may appear in any pro-
 18 ceeding involving an Indian child without associating with local counsel if the attorney establishes
 19 to the satisfaction of the Oregon State Bar that:

20 (a) The attorney will appear in a court in this state for the limited purpose of participating in
 21 a proceeding under ORS chapter 419B subject to the provisions of ORS 419B.600 to 419B.654;

22 (b) The attorney represents an Indian child’s parent, Indian custodian or tribe; and

23 (c) The Indian child’s tribe has affirmed the Indian child’s membership or eligibility for mem-
 24 bership under tribal law.

25 (3) Notwithstanding ORS 419B.875 [(1)(a)(H)] **(1)(a)(I)**, an Indian custodian or tribe may notify
 26 the court, orally on the record or in writing, that the Indian custodian or tribe withdraws as a party
 27 to the proceeding.

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