Chapter 419B

2011 EDITION

Juvenile Code: Dependency

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REPORTING OF CHILD ABUSE

419B.005 Definitions. As used in ORS 419B.005 to 419B.050, unless the context requires otherwise:

(1)(a) "Abuse" means:

(A) Any assault, as defined in ORS chapter 163, of a child and any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury.

(B) Any mental injury to a child, which shall include only observable and substantial impairment of the child's mental or psychological ability to function caused by cruelty to the child, with due regard to the culture of the child.

(C) Rape of a child, which includes but is not limited to rape, sodomy, unlawful sexual penetration and incest, as those acts are described in ORS chapter 163.

(D) Sexual abuse, as described in ORS chapter 163.

(E) Sexual exploitation, including but not limited to:

(i) Contributing to the sexual delinquency of a minor, as defined in ORS chapter 163, and any other conduct which allows, employs, authorizes, permits, induces or encourages a child to engage in the performing for people to observe or the photographing, filming, tape recording or other exhibition which, in whole or in part, depicts sexual conduct or contact, as defined in ORS 167.002 or described in ORS 163.665 and 163.670, sexual abuse involving a child or rape of a child, but not including any conduct which is part of any investigation conducted pursuant to ORS 419B.020 or which is designed to serve educational or other legitimate purposes; and

(ii) Allowing, permitting, encouraging or hiring a child to engage in prostitution or to patronize a prostitute, as defined in ORS chapter 167.

(F) Negligent treatment or maltreatment of a child, including but not limited to the failure to provide adequate food, clothing, shelter or medical care that is likely to endanger the health or welfare of the child.

(G) Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare.

(H) Buying or selling a person under 18 years of age as described in ORS 163.537.

(I) Permitting a person under 18 years of age to enter or remain in or upon premises where methamphetamines are being manufactured.

(J) Unlawful exposure to a controlled substance, as defined in ORS 475.005, that subjects a child to a substantial risk of harm to the child's health or safety.

(b) "Abuse" does not include reasonable discipline unless the discipline results in one of the conditions described in paragraph (a) of this subsection.

(2) "Child" means an unmarried person who is under 18 years of age.

(3) "Law enforcement agency" means:

(a) A city or municipal police department.

(b) A county sheriff's office.

(c) The Oregon State Police.

(d) A police department established by a university under ORS 352.383.

(e) A county juvenile department.

(4) "Public or private official" means:

(a) Physician, osteopathic physician, physician assistant, naturopathic physician, podiatric physician and surgeon, including any intern or resident.

(b) Dentist.

(c) School employee.

(d) Licensed practical nurse, registered nurse, nurse practitioner, nurse's aide, home health aide or employee of an in-home health service.

(e) Employee of the Department of Human Services, Oregon Health Authority, State Commission on Children and Families, Child Care Division of the Employment Department, the Oregon Youth Authority, a county health department, a community mental health program, a community developmental disabilities program, a county juvenile department, a licensed child-caring agency or an alcohol and drug treatment program.

(f) Peace officer.

(g) Psychologist.

(h) Member of the clergy.

(i) Regulated social worker.

(j) Optometrist.

(k) Chiropractor.

(L) Certified provider of foster care, or an employee thereof.

(m) Attorney.

(n) Licensed professional counselor.

(o) Licensed marriage and family therapist.

(p) Firefighter or emergency medical services provider.

(q) A court appointed special advocate, as defined in ORS 419A.004.

(r) A child care provider registered or certified under ORS 657A.030 and 657A.250 to 657A.450.

(s) Member of the Legislative Assembly.

(t) Physical, speech or occupational therapist.

(u) Audiologist.

(v) Speech-language pathologist.

(w) Employee of the Teacher Standards and Practices Commission directly involved in investigations or discipline by the commission.

(x) Pharmacist.

(y) An operator of a preschool recorded program under ORS 657A.255.

(z) An operator of a school-age recorded program under ORS 657A.257.

(aa) Employee of a private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056. [1993 c.546 §12; 1993 c.622 §1a; 1995 c.278 §50; 1995 c.766 §1; 1997 c.127 §1; 1997 c.561 §3; 1997 c.703 §3; 1997 c.873 §30; 1999 c.743 §22; 1999 c.954 §4; 2001 c.104 §148; 2003 c.191 §1; 2005 c.562 §26; 2005 c.708 §4; 2009 c.199 §1; 2009 c.442 §36; 2009 c.518 §1; 2009 c.570 §6; 2009 c.595 §364; 2009 c.633 §10; 2009 c.708 §3; 2010 c.60 §§4,5; 2011 c.151 §12; 2011 c.506 §38; 2011 c.703 §34]

419B.007 Policy. The Legislative Assembly finds that for the purpose of facilitating the use of protective social services to prevent further abuse, safeguard and enhance the welfare of abused children, and preserve family life when consistent with the protection of the child by stabilizing the family and improving parental capacity, it is necessary and in the public interest to require mandatory reports and investigations of abuse of children and to encourage voluntary reports. [1993 c.546 §13]

419B.010 Duty of officials to report child abuse; exceptions; penalty. (1) Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse or that any person with whom the official comes in contact has abused a child shall immediately report or cause a report to be made in the manner required in ORS 419B.015. Nothing contained in ORS 40.225 to 40.295 or 419B.234 (6) affects the duty to report imposed by this section, except that a psychiatrist, psychologist, member of the clergy, attorney or guardian ad litem appointed under ORS 419B.231 is not required to report such information communicated by a person if the communication is privileged under ORS 40.225 to 40.295 or 419B.234 (6). An attorney is not required to make a report under this section by reason of information communicated to the attorney in the course of representing a client if disclosure of the information would be detrimental to the client.

(2) Notwithstanding subsection (1) of this section, a report need not be made under this section if the public or private official acquires information relating to abuse by reason of a report made under this section, or by reason of a proceeding arising out of a report made under this section, and the public or private official reasonably believes that the information is already known by a law enforcement agency or the Department of Human Services.

(3) A person who violates subsection (1) of this section commits a Class A violation. Prosecution under this subsection shall be commenced at any time within 18 months after commission of the offense. [1993 c.546 §14; 1999 c.1051 §180; 2001 c.104 §149; 2001 c.904 §15; 2005 c.450 §7]

419B.015 Report form and content; notice. (1)(a) A person making a report of child abuse, whether the report is made voluntarily or is required by ORS 419B.010, shall make an oral report by telephone or otherwise to the local office of the Department of Human Services, to the designee of the department or to a law enforcement agency within the county where the person making the report is located at the time of the contact. The report shall contain, if known, the names and addresses of the child and the parents of the child or other persons responsible for care of the child, the child's age, the nature and extent of the abuse, including any evidence of previous abuse, the explanation given for the abuse and any other information that the person making the report believes might be helpful in establishing the cause of the abuse and the identity of the perpetrator.

(b) When a report of child abuse is received by the department, the department shall notify a law enforcement agency within the county where the report was made. When a report of child abuse is received by a designee of the department, the designee shall notify, according to the contract, either the department or a law enforcement agency within the county where the report was made. When a report of child abuse is received by a law enforcement agency, the agency shall notify the local office of the department within the county where the report was made.

(2) When a report of child abuse is received under subsection (1)(a) of this section, the entity receiving the report shall make the notification required by subsection (1)(b) of this section according to rules adopted by the department under ORS 419B.017.

(3)(a) When a report alleging that a child or ward in substitute care may have been subjected to abuse is received by the department, the department shall notify the attorney for the child or ward, the child's or ward's court appointed special advocate, the parents of the child or ward and any attorney representing a parent of the child or ward that a report has been received.

(b) The name and address of and other identifying information about the person who made the report may not be disclosed under this subsection. Any person or entity to whom notification is made under this subsection may not release any information not authorized by this subsection.

(c) The department shall make the notification required by this subsection within three business days of receiving the report of abuse.

(d) Notwithstanding the obligation imposed by this subsection, the department is not required under this subsection to notify the parent or parent's attorney that a report of abuse has been received if the notification may interfere with an investigation or assessment or jeopardize the child's or ward's safety. [1993 c.546 §15; 1993 c.734 §1a; 2005 c.250 §1; 2007 c.237 §1]

419B.016 Offense of false report of child abuse. (1) A person commits the offense of making a false report of child abuse if, with the intent to influence a custody, parenting time, visitation or child support decision, the person:

(a) Makes a false report of child abuse to the Department of Human Services or a law enforcement agency, knowing that the report is false; or

(b) With the intent that a public or private official make a report of child abuse to the Department of Human Services or a law enforcement agency, makes a false report of child abuse to the public or private official, knowing that the report is false.

(2) Making a false report of child abuse is a Class A violation. [2011 c.606 §2]

Note: 419B.016 was added to and made a part of 419B.005 to 419B.050 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

419B.017 Time limits for notification between law enforcement agencies and Department of Human Services; rules. (1) The Department of Human Services shall adopt rules establishing:

(a) The time within which the notification required by ORS 419B.015 (1)(a) must be made. At a minimum, the rules shall:

(A) Establish which reports of child abuse require notification within 24 hours after receipt;

(B) Provide that all other reports of child abuse require notification within 10 days after receipt; and

(C) Establish criteria that enable the department, the designee of the department or a law enforcement agency to quickly and easily identify reports that require notification within 24 hours after receipt.

(b) How the notification is to be made.

(2) The department shall appoint an advisory committee to advise the department in adopting rules required by this section. The department shall include as members of the advisory committee representatives of law enforcement agencies and multidisciplinary teams formed pursuant to ORS 418.747 and other interested parties.

(3) In adopting rules required by this section, the department shall balance the need for providing other entities with the information contained in a report received under ORS 419B.015 with the resources required to make the notification.

(4) The department may recommend practices and procedures to local law enforcement agencies to meet the requirements of rules adopted under this section. [2005 c.250 §3]

Note: 419B.017 was added to and made a part of 419B.005 to 419B.050 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

419B.020 Duty of department or law enforcement agency receiving report; investigation; notice to parents; physical examination; child's consent; notice at conclusion of investigation. (1) If the Department of Human Services or a law enforcement agency receives a report of child abuse, the department or the agency shall immediately:

(a) Cause an investigation to be made to determine the nature and cause of the abuse of the child; and

(b) Notify the Child Care Division if the alleged child abuse occurred in a child care facility as defined in ORS 657A.250.

(2) If the abuse reported in subsection (1) of this section is alleged to have occurred at a child care facility:

(a) The department and the law enforcement agency shall jointly determine the roles and responsibilities of the department and the agency in their respective investigations; and

(b) The department and the agency shall each report the outcomes of their investigations to the Child Care Division.

(3) If the law enforcement agency conducting the investigation finds reasonable cause to believe that abuse has occurred, the

law enforcement agency shall notify by oral report followed by written report the local office of the department. The department shall provide protective social services of its own or of other available social agencies if necessary to prevent further abuses to the child or to safeguard the child's welfare.

(4) If a child is taken into protective custody by the department, the department shall promptly make reasonable efforts to ascertain the name and address of the child's parents or guardian.

(5)(a) If a child is taken into protective custody by the department or a law enforcement official, the department or law enforcement official shall, if possible, make reasonable efforts to advise the parents or guardian immediately, regardless of the time of day, that the child has been taken into custody, the reasons the child has been taken into custody and general information about the child's placement, and the telephone number of the local office of the department and any after-hours telephone numbers.

(b) Notice may be given by any means reasonably certain of notifying the parents or guardian, including but not limited to written, telephonic or in-person oral notification. If the initial notification is not in writing, the information required by paragraph (a) of this subsection also shall be provided to the parents or guardian in writing as soon as possible.

(c) The department also shall make a reasonable effort to notify the noncustodial parent of the information required by paragraph (a) of this subsection in a timely manner.

(d) If a child is taken into custody while under the care and supervision of a person or organization other than the parent, the department, if possible, shall immediately notify the person or organization that the child has been taken into protective custody.

(6) If a law enforcement officer or the department, when taking a child into protective custody, has reasonable cause to believe that the child has been affected by sexual abuse and rape of a child as defined in ORS 419B.005 (1)(a)(C) and that physical evidence of the abuse exists and is likely to disappear, the court may authorize a physical examination for the purposes of preserving evidence if the court finds that it is in the best interest of the child to have such an examination. Nothing in this section affects the authority of the department to consent to physical examinations of the child at other times.

(7) A minor child of 12 years of age or older may refuse to consent to the examination described in subsection (6) of this section. The examination shall be conducted by or under the supervision of a physician licensed under ORS chapter 677 or a nurse practitioner licensed under ORS chapter 678 and, whenever practicable, trained in conducting such examinations.

(8) When the department completes an investigation under this section, if the person who made the report of child abuse provided contact information to the department, the department shall notify the person about whether contact with the child was made, whether the department determined that child abuse occurred and whether services will be provided. The department is not required to disclose information under this subsection if the department determines that disclosure is not permitted under ORS 419B.035. [1993 c.546 §16; 1993 c.622 §7a; 1997 c.130 §13; 1997 c.703 §1; 1997 c.873 §33; 2007 c.501 §4; 2007 c.781 §1]

419B.021 Degree requirements for persons conducting investigation or making determination regarding child. (1) Except as provided in subsection (2) of this section, the following persons must possess a bachelor's, master's or doctoral degree from an accredited institution of higher education:

(a) A person who conducts an investigation under ORS 419B.020; and

(b) A person who makes the following determinations:

(A) That a child must be taken into protective custody under ORS 419B.150; and

(B) That the child should not be released to the child's parent or other responsible person under ORS 419B.165 (2).

(2) Subsection (1) of this section does not apply to:

(a) A person who was employed or otherwise engaged by the Department of Human Services for the purpose of conducting investigations or making determinations before January 1, 2012, provided the person's employment or engagement for these purposes has been continuous and uninterrupted.

(b) A law enforcement official as that term is defined in ORS 147.005. [2011 c.431 §1]

Note: Section 2, chapter 431, Oregon Laws 2011, provides:

Sec. 2. Section 1 of this 2011 Act [419B.021] applies to child abuse investigations and protective custody determinations made on or after the effective date of this 2011 Act [January 1, 2012]. [2011 c.431 §2]

Note: 419B.021 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

419B.022 Short title. ORS 419B.023 and 419B.024 shall be known and may be cited as "Karly's Law." [2007 c.674 §1]

Note: 419B.022 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

419B.023 Duties of person conducting investigation under ORS 419B.020. (1) As used in this section:

(a) "Designated medical professional" means the person described in ORS 418.747 (9) or the person's designee.

(b) "Suspicious physical injury" includes, but is not limited to:

(A) Burns or scalds;

(B) Extensive bruising or abrasions on any part of the body;

(C) Bruising, swelling or abrasions on the head, neck or face;

(D) Fractures of any bone in a child under the age of three;

(E) Multiple fractures in a child of any age;

(F) Dislocations, soft tissue swelling or moderate to severe cuts;

(G) Loss of the ability to walk or move normally according to the child's developmental ability;

(H) Unconsciousness or difficulty maintaining consciousness;

(I) Multiple injuries of different types;

(J) Injuries causing serious or protracted disfigurement or loss or impairment of the function of any bodily organ; or

(K) Any other injury that threatens the physical well-being of the child.

(2) If a person conducting an investigation under ORS 419B.020 observes a child who has suffered suspicious physical injury and the person is certain or has a reasonable suspicion that the injury is or may be the result of abuse, the person shall, in accordance with the protocols and procedures of the county multidisciplinary child abuse team described in ORS 418.747:

(a) Immediately photograph or cause to have photographed the suspicious physical injuries in accordance with ORS 419B.028; and

(b) Ensure that a designated medical professional conducts a medical assessment within 48 hours, or sooner if dictated by the child's medical needs.

(3) The requirement of subsection (2) of this section shall apply:

(a) Each time suspicious physical injury is observed by Department of Human Services or law enforcement personnel:

(A) During the investigation of a new allegation of abuse; or

(B) If the injury was not previously observed by a person conducting an investigation under ORS 419B.020; and

(b) Regardless of whether the child has previously been photographed or assessed during an investigation of an allegation of abuse.

(4)(a) Department or law enforcement personnel shall make a reasonable effort to locate a designated medical professional. If after reasonable efforts a designated medical professional is not available to conduct a medical assessment within 48 hours, the child shall be evaluated by an available physician.

(b) If the child is evaluated by a health care provider as defined in ORS 127.505 other than a designated medical professional, the health care provider shall make photographs, clinical notes, diagnostic and testing results and any other relevant materials available to the designated medical professional for consultation within 72 hours following evaluation of the child.

(c) The person conducting the medical assessment may consult with and obtain records from the child's regular pediatrician or family physician under ORS 419B.050.

(5) Nothing in this section prevents a person conducting a child abuse investigation from seeking immediate medical treatment from a hospital emergency room or other medical provider for a child who is physically injured or otherwise in need of immediate medical care.

(6) If the child described in subsection (2) of this section is less than five years of age, the designated medical professional may, within 14 days, refer the child for a screening for early intervention services or early childhood special education, as those terms are defined in ORS 343.035. The referral may not indicate the child is subject to a child abuse investigation unless written consent is obtained from the child's parent authorizing such disclosure. If the child is already receiving those services, or is enrolled in the Head Start program, a person involved in the delivery of those services to the child shall be invited to participate in the county multidisciplinary child abuse team's review of the case and shall be provided with paid time to do so by the person's employer.

(7) Nothing in this section limits the rights provided to minors in ORS chapter 109 or the ability of a minor to refuse to consent to the medical assessment described in this section. [2007 c.674 §3; 2009 c.296 §1]

Note: 419B.023 was added to and made a part of 419B.005 to 419B.050 by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

419B.024 Critical Incident Response Team for child fatality; rules. (1) The Department of Human Services shall assign a Critical Incident Response Team within 24 hours after the department determines that a child fatality was likely the result of child abuse or neglect if:

(a) The child was in the custody of the department at the time of death; or

(b) The child was the subject of a child protective services assessment by the department within the 12 months preceding the fatality.

(2) During the course of its review of the case, the Critical Incident Response Team may include or consult with the district attorney from the county in which the incident resulting in the fatality occurred.

(3) The department shall adopt rules necessary to carry out the provisions of this section. The rules adopted by the department shall substantially conform with the department's child welfare protocol regarding Notification and Review of Critical Incidents. [2007 c.674 §4]

Note: 419B.024 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

419B.025 Immunity of person making report in good faith. Anyone participating in good faith in the making of a report of child abuse and who has reasonable grounds for the making thereof shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report. [1993 c.546 §17]

419B.028 Photographing child during investigation; photographs as records. (1) In carrying out its duties under ORS 419B.020, any law enforcement agency or the Department of Human Services may photograph or cause to have photographed any child subject of the investigation for purposes of preserving evidence of the child's condition at the time of the investigation. Photographs of the anal or genital region may be taken only by medical personnel.

(2) When a child is photographed pursuant to ORS 419B.023, the person taking the photographs or causing to have the photographs taken shall, within 48 hours or by the end of the next regular business day, whichever occurs later:

(a) Provide hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format to the designated medical professional described in ORS 418.747 (9); and

(b) Place hard copies or prints of the photographs and, if available, copies of the photographs in an electronic format in any relevant files pertaining to the child maintained by the law enforcement agency or the department.

(3) For purposes of ORS 419B.035, photographs taken under authority of this section shall be considered records. [1993 c.546 §18; 2007 c.674 §5]

419B.030 Central registry of reports. (1) A central state registry shall be established and maintained by the Department of Human Services. The local offices of the department shall report to the state registry in writing when an investigation has shown reasonable cause to believe that a child's condition was the result of abuse even if the cause remains unknown. Each registry shall contain current information from reports cataloged both as to the name of the child and the name of the family.

(2) When the department provides specific case information from the central state registry, the department shall include a notice that the information does not necessarily reflect any subsequent proceedings that are not within the jurisdiction of the department. [1993 c.546 §19]

419B.035 Confidentiality of records; when available to others. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section. The Department of Human Services shall make the records available to:

(a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse;

(b) Any physician, at the request of the physician, regarding any child brought to the physician or coming before the physician for examination, care or treatment;

(c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding;

(d) Citizen review boards established by the Judicial Department for the purpose of periodically reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to participants in case reviews;

(e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;

(f) The Child Care Division for certifying, registering or otherwise regulating child care facilities;

(g) The Office of Children's Advocate;

(h) The Teacher Standards and Practices Commission for investigations conducted under ORS 342.176 involving any child or any student in grade 12 or below;

(i) Any person, upon request to the Department of Human Services, if the reports or records requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be disclosed in accordance with ORS 192.410 to 192.505; and

(j) The Child Care Division of the Employment Department for purposes of ORS 657A.030 (8)(g).

(2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the Department of Human Services may exempt from disclosure the names, addresses and other identifying information about other children, witnesses, victims or other persons named in the report or record if the department determines, in written findings, that the safety or well-being of a person named in the report or record may be jeopardized by disclosure of the names, addresses or other identifying information, and if that concern outweighs the public's interest in the disclosure of that information.

(b) If the Department of Human Services does not have a report or record of abuse regarding a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015, the department may disclose that information.

(3) The Department of Human Services may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court, agency, organization or other entity when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research when the Director of Human Services gives prior written approval. The Department of Human Services shall adopt rules setting forth the procedures by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this section. The name, address and other identifying information about the person who made the report may not be disclosed pursuant to this subsection and subsection (1) of this section.

(4) A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city attorneys with criminal prosecutorial functions and the Attorney General when the law enforcement agency determines that disclosure is necessary for the investigation or enforcement of laws relating to child abuse and neglect.

(5) A law enforcement agency, upon completing an investigation and closing the file in a specific case relating to child abuse or neglect, shall make reports and records in the case available upon request to any law enforcement agency or community corrections agency in this state, to the Department of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release. A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement, community corrections, corrections or parole agencies in an open case when the law enforcement agency determines that the disclosure will not interfere with an ongoing investigation in the case. The name, address and other identifying information about the person who made the report may not be disclosed under this subsection or subsection (6)(b) of this section.

(6)(a) Any record made available to a law enforcement agency or community corrections agency in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Supervision or to a physician in this state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board or physician. Any record or report disclosed by the Department of Human Services to other persons or entities pursuant to subsections (1) and (3) of this section shall be kept confidential.

(b) Notwithstanding paragraph (a) of this subsection:

(A) A law enforcement agency, a community corrections agency, the Department of Corrections and the State Board of Parole and Post-Prison Supervision may disclose records made available to them under subsection (5) of this section to each other, to law enforcement, community corrections, corrections and parole agencies of other states and to authorized treatment providers for the

purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release.

(B) A person may disclose records made available to the person under subsection (1)(i) of this section if the records are disclosed for the purpose of advancing the public interest.

(7) An officer or employee of the Department of Human Services or of a law enforcement agency or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section may not release any information not authorized by subsections (1) to (6) of this section.

(8) As used in this section, "law enforcement agency" has the meaning given that term in ORS 181.010.

(9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation. [1993 c.546 §§20,20a; 1995 c.278 §51; 1997 c.328 §8; 1999 c.1051 §181; 2003 c.14 §224; 2003 c.412 §1; 2003 c.591 §8; 2005 c.317 §1; 2005 c.659 §2; 2009 c.348 §3; 2009 c.393 §1]

Note: The amendments to 419B.035 by section 4, chapter 348, Oregon Laws 2009, become operative January 1, 2014. See section 6, chapter 348, Oregon Laws 2009. The text that is operative on and after January 1, 2014, is set forth for the user's convenience.

419B.035. (1) Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section. The Department of Human Services shall make the records available to:

(a) Any law enforcement agency or a child abuse registry in any other state for the purpose of subsequent investigation of child abuse;

(b) Any physician, at the request of the physician, regarding any child brought to the physician or coming before the physician for examination, care or treatment;

(c) Attorneys of record for the child or child's parent or guardian in any juvenile court proceeding;

(d) Citizen review boards established by the Judicial Department for the purpose of periodically reviewing the status of children, youths and youth offenders under the jurisdiction of the juvenile court under ORS 419B.100 and 419C.005. Citizen review boards may make such records available to participants in case reviews;

(e) A court appointed special advocate in any juvenile court proceeding in which it is alleged that a child has been subjected to child abuse or neglect;

(f) The Child Care Division for certifying, registering or otherwise regulating child care facilities;

(g) The Office of Children's Advocate;

(h) The Teacher Standards and Practices Commission for investigations conducted under ORS 342.176 involving any child or any student in grade 12 or below; and

(i) Any person, upon request to the Department of Human Services, if the reports or records requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015. Reports or records disclosed under this paragraph must be disclosed in accordance with ORS 192.410 to 192.505.

(2)(a) When disclosing reports and records pursuant to subsection (1)(i) of this section, the Department of Human Services may exempt from disclosure the names, addresses and other identifying information about other children, witnesses, victims or other persons named in the report or record if the department determines, in written findings, that the safety or well-being of a person named in the report or record may be jeopardized by disclosure of the names, addresses or other identifying information, and if that concern outweighs the public's interest in the disclosure of that information.

(b) If the Department of Human Services does not have a report or record of abuse regarding a child who, as the result of abuse, died or suffered serious physical injury as defined in ORS 161.015, the department may disclose that information.

(3) The Department of Human Services may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to any person, administrative hearings officer, court, agency, organization or other entity when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, to protect children from abuse and neglect or for research when the Director of Human Services gives prior written approval. The Department of Human Services shall adopt rules setting forth the procedures by which it will make the disclosures authorized under this subsection or subsection (1) or (2) of this section. The name, address and other identifying information about the person who made the report may not be disclosed pursuant to this subsection and subsection (1) of this section.

(4) A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to other law enforcement agencies, district attorneys, city attorneys with criminal prosecutorial functions and the Attorney General when the law enforcement agency determines that disclosure is necessary for the investigation or enforcement of laws relating to child abuse and neglect.

(5) A law enforcement agency, upon completing an investigation and closing the file in a specific case relating to child abuse or neglect, shall make reports and records in the case available upon request to any law enforcement agency or community corrections agency in this state, to the Department of Corrections or to the State Board of Parole and Post-Prison Supervision for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release. A law enforcement agency may make reports and records compiled under the provisions of ORS 419B.010 to 419B.050 available to law enforcement, community corrections, corrections or parole agencies in an open case when the law enforcement agency determines that the disclosure will not interfere with an ongoing investigation in the case. The name, address and other identifying information about the person who made the report may not be disclosed under this subsection or subsection (6)(b) of this section.

(6)(a) Any record made available to a law enforcement agency or community corrections agency in this state, to the Department of Corrections or the State Board of Parole and Post-Prison Supervision or to a physician in this state, as authorized by subsections (1) to (5) of this section, shall be kept confidential by the agency, department, board or physician. Any record or report disclosed by the Department of Human Services to other persons or entities pursuant to subsections (1) and (3) of this section shall be kept confidential.

(b) Notwithstanding paragraph (a) of this subsection:

(A) A law enforcement agency, a community corrections agency, the Department of Corrections and the State Board of Parole and Post-Prison Supervision may disclose records made available to them under subsection (5) of this section to each other, to law enforcement, community corrections, corrections and parole agencies of other states and to authorized treatment providers for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release.

(B) A person may disclose records made available to the person under subsection (1)(i) of this section if the records are disclosed for the purpose of advancing the public interest.

(7) An officer or employee of the Department of Human Services or of a law enforcement agency or any person or entity to whom disclosure is made pursuant to subsections (1) to (6) of this section may not release any information not authorized by subsections (1) to (6) of this section.

(8) As used in this section, "law enforcement agency" has the meaning given that term in ORS 181.010.

(9) A person who violates subsection (6)(a) or (7) of this section commits a Class A violation.

419B.040 Certain privileges not grounds for excluding evidence in court proceedings on child abuse. (1) In the case of abuse of a child, the privileges created in ORS 40.230 to 40.255, including the psychotherapist-patient privilege, the physician-patient privilege, the privileges extended to nurses, to staff members of schools and to regulated social workers and the husband-wife privilege, shall not be a ground for excluding evidence regarding a child's abuse, or the cause thereof, in any judicial proceeding resulting from a report made pursuant to ORS 419B.010 to 419B.050.

(2) In any judicial proceedings resulting from a report made pursuant to ORS 419B.010 to 419B.050, either spouse shall be a competent and compellable witness against the other. [1993 c.546 §21; 2009 c.442 §37]

419B.045 Investigation conducted on public school premises; notification; role of school personnel. If an investigation of a report of child abuse is conducted on public school premises, the school administrator shall first be notified that the investigation is to take place, unless the school administrator is a subject of the investigation. The school administrator or a school staff member designated by the administrator may, at the investigator's discretion, be present to facilitate the investigation. The Department of Human Services or the law enforcement agency making the investigation shall be advised of the child's disabling conditions, if any, prior to any interview with the affected child. A school administrator or staff member is not authorized to reveal anything that transpires during an investigation in which the administrator or staff member participates nor shall the information become part of the child's school records. The school administrator or staff member may testify at any subsequent trial resulting from the investigation and may be interviewed by the respective litigants prior to any such trial. [1993 c.546 §22; 2003 c.14 §225]

419B.050 Authority of health care provider to disclose information; immunity from liability. (1) Upon notice by a law enforcement agency, the Department of Human Services, a member agency of a county multidisciplinary child abuse team or a member of a county multidisciplinary child abuse team that a child abuse investigation is being conducted under ORS 419B.020, a health care provider must permit the law enforcement agency, the department, the member agency of the county multidisciplinary child abuse team or the member of the county multidisciplinary child abuse team to inspect and copy medical records, including, but not limited to, prenatal and birth records, of the child involved in the investigation without the consent of the child, or the parent or guardian of the child. A health care provider who in good faith disclosed medical records under this section is not civilly or criminally liable for the disclosure.

(2) As used in this section, "health care provider" has the meaning given that term in ORS 192.556. [1997 c.873 §27; 1999 c.537 §3; 2001 c.104 §150; 2005 c.562 §27]

JUVENILE COURT

(Generally)

419B.090 Juvenile court; jurisdiction; policy. (1) The juvenile court is a court of record and exercises jurisdiction as a court of general and equitable jurisdiction and not as a court of limited or inferior jurisdiction. The juvenile court is called "The _____ Court of _____ County, Juvenile Department."

(2)(a) It is the policy of the State of Oregon to recognize that children are individuals who have legal rights. Among those rights are the right to:

(A) Permanency with a safe family;

(B) Freedom from physical, sexual or emotional abuse or exploitation; and

(C) Freedom from substantial neglect of basic needs.

(b) Parents and guardians have a duty to afford their children the rights listed in paragraph (a) of this subsection. Parents and guardians have a duty to remove any impediment to their ability to perform parental duties that afford these rights to their children. When a parent or guardian fails to fulfill these duties, the juvenile court may determine that it is in the best interests of the child to remove the child from the parent

or guardian either temporarily or permanently.

(c) The provisions of this chapter shall be liberally construed to the end that a child coming within the jurisdiction of the court may receive such care, guidance, treatment and control as will lead to the child's welfare and the protection of the community.

(3) It is the policy of the State of Oregon to safeguard and promote each child's right to safety, stability and well-being. The State of Oregon recognizes the importance of a child's relationships with parents, siblings, grandparents and other relatives.

(4) It is the policy of the State of Oregon to guard the liberty interest of parents protected by the Fourteenth Amendment to the United States Constitution and to protect the rights and interests of children, as provided in subsection (2) of this section. The provisions of this chapter shall be construed and applied in compliance with federal constitutional limitations on state action established by the United States Supreme Court with respect to interference with the rights of parents to direct the upbringing of their children, including, but not limited to, the right to:

(a) Guide the secular and religious education of their children;

(b) Make health care decisions for their children; and

(c) Discipline their children.

(5) It is the policy of the State of Oregon, in those cases not described as extreme conduct under ORS 419B.502, to offer appropriate reunification services to parents and guardians to allow them the opportunity to adjust their circumstances, conduct or conditions to make it possible for the child to safely return home within a reasonable time. Although there is a strong preference that children live in their own homes with their own families, the state recognizes that it is not always possible or in the best interests of the child or the public for children who have been abused or neglected to be reunited with their parents or guardians. In those cases, the State of Oregon has the obligation to create or provide an alternative, safe and permanent home for the child.

(6) The State of Oregon recognizes the value of the Indian Child Welfare Act and hereby incorporates the policies of that Act. [1997 c.873 §2a; 1999 c.859 §22; 2001 c.686 §21; 2007 c.71 §112; 2007 c.806 §3]

419B.100 Jurisdiction; bases; Indian children. (1) Except as otherwise provided in subsection (6) of this section and ORS 107.726, the juvenile court has exclusive original jurisdiction in any case involving a person who is under 18 years of age and:

(a) Who is beyond the control of the person's parents, guardian or other person having custody of the person;

(b) Whose behavior is such as to endanger the welfare of the person or of others;

(c) Whose condition or circumstances are such as to endanger the welfare of the person or of others;

(d) Who is dependent for care and support on a public or private child-caring agency that needs the services of the court in planning for the best interest of the person;

(e) Whose parents or any other person or persons having custody of the person have:

(A) Abandoned the person;

(B) Failed to provide the person with the care or education required by law;

(C) Subjected the person to cruelty, depravity or unexplained physical injury; or

(D) Failed to provide the person with the care, guidance and protection necessary for the physical, mental or emotional well-being of the person;

(f) Who has run away from the home of the person;

(g) Who has filed a petition for emancipation pursuant to ORS 419B.550 to 419B.558; or

(h) Who is subject to an order entered under ORS 419C.411 (7)(a).

(2) The court shall have jurisdiction under subsection (1) of this section even though the child is receiving adequate care from the person having physical custody of the child.

(3) The provisions of subsection (1) of this section do not prevent a court of competent jurisdiction from entertaining a civil action or suit involving a child.

(4) The court does not have further jurisdiction as provided in subsection (1) of this section after a minor has been emancipated pursuant to ORS 419B.550 to 419B.558.

(5)(a) An Indian tribe has exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of the tribe, except where the jurisdiction is otherwise vested in the state by existing federal law.

(b) Upon the petition of either parent, the Indian custodian or the Indian child's tribe, the juvenile court, absent good cause to the contrary and absent objection by either parent, shall transfer a proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation

of the Indian child's tribe, to the jurisdiction of the tribe.

(c) The juvenile court shall give full faith and credit to the public acts, records and judicial proceedings of an Indian tribe applicable to an Indian child custody proceeding to the same extent that the juvenile court gives full faith and credit to the public acts, records and judicial proceedings of any other entity. [1993 c.33 §53; 1993 c.546 §10; 1993 c.643 §5; 2005 c.843 §31; 2011 c.291 §5]

419B.110 Emergency medical care; court may authorize. Whether or not a petition has been filed, if a child requires emergency medical care, including surgery, and no parent is available or willing to consent to the care, a judge of the juvenile court may authorize the care. The judge may thereafter direct the filing of a new petition. [1993 c.546 §24]

419B.115 [1993 c.546 §25; 1997 c.479 §2; 1997 c.873 §21; 1999 c.859 §7; 2001 c.214 §1; 2001 c.622 §§39,39a; 2001 c.962 §83; renumbered 419B.875 in 2001]

419B.116 Intervention; caregiver relationship; rights of limited participation. (1)(a) As used in this section, "caregiver relationship" means a relationship between a person and a child or ward:

(A) That has existed:

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

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

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

(B) In which the person had physical custody of the child or ward or resided in the same household as the child or ward;

(C) In which the person provided the child or ward on a daily basis with the love, nurturing and other necessities required to meet the child or ward's psychological and physical needs; and

(D) On which the child depended to meet the child or ward's needs.

(b) "Caregiver relationship" does not include a relationship between a child or ward and a person who is the nonrelated foster parent of the child or ward unless the relationship continued for a period of at least 12 consecutive months.

(2) A person asserting that the person has a caregiver relationship with a child or ward may file a motion for intervention in a juvenile dependency proceeding.

(3) Filing a motion under subsection (2) of this section is the sole means by which a person may become a party to a juvenile dependency proceeding as an intervenor. An order granting intervention under this section is exclusively for juvenile dependency proceedings and does not confer standing or rights of intervention in any other action. Intervention is not allowed in proceedings under ORS 419B.500.

(4) A motion for intervention under subsection (2) of this section must state:

(a) The person's relationship to the child or ward and the person's involvement in the child or ward's life;

(b) The reason that intervention is sought;

(c) How the person's intervention is in the best interests of the child or ward;

(d) Why the existing parties cannot adequately present the case; and

(e) What specific relief is being sought.

(5)(a) If a party wishes to oppose a motion for intervention, the party must file a written objection to the motion stating the grounds for the objection no later than 21 days after the motion is filed. If no written objection is filed as provided in this paragraph, the court may grant the motion without a hearing. Except as provided in paragraph (b) of this subsection, if a written objection is filed as provided in this paragraph, the court shall hold a hearing on the motion.

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

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

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

(B) The intervention is in the best interests of the child or ward;

(C) The reason for intervention and the specific relief sought are consistent with the best interests of the child or ward; and

(D) The existing parties cannot adequately present the case.

(6) A person granted intervention is a party to the case and, except as provided in subsection (10) of this section, may be granted such relief as the court determines to be appropriate and in the best interests of the child or ward.

(7) A person who is not a party under ORS 419B.875 may seek rights of limited participation by filing a written motion for limited participation in a juvenile court proceeding. The motion must state:

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

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

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

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

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

(b) If a motion seeking rights of limited participation does not state a prima facie case as to the facts that must be proved under paragraph (c) of this subsection, the court may deny the motion without a hearing.

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

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

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

(C) The parties cannot adequately present the case.

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

(10)(a) At any time, a person granted intervention or a person granted rights of limited participation may move to be considered a temporary placement or visitation resource for the child or ward.

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

(11) The court may modify or set aside any order granting intervention or rights of limited participation as provided in ORS 419B.923. [2001 c.624 §3; 2003 c.14 §226; 2003 c.231 §3; 2003 c.315 §2; 2003 c.396 §35a; 2005 c.449 §2; 2005 c.676 §2; 2009 c.92 §1; 2009 c.182 §1]

419B.117 Notice to parents or guardian of child; when given; contents. (1) At the first appearance by the parents or guardian of a child before the court, the court shall inform the parents or guardian verbally and provide a standard notice describing:

(a) The obligation of the parents or guardian to pay for compensation and reasonable expenses for counsel for the child, support of the child while the child is in the custody of a state-financed or state-supported residence and any other obligations to pay money that may arise as a result of the child being within the jurisdiction of the court;

(b) The assignment of support rights under ORS 419B.406;

(c) The right of the parents or guardian to appeal a decision on jurisdiction or disposition made by the court; and

(d) The time for filing an appeal of a decision by the court.

(2) The court shall prepare and provide the standard notice required under subsection (1) of this section.

(3) The court shall place a notation in the record of the case of the date that the parents or guardian were provided information under this section. [1997 c.748 §2]

419B.118 Venue. (1) Subject to the provisions of subsections (2), (3) and (4) of this section, a juvenile court proceeding shall commence in the county of wardship if, at the commencement of the proceeding, wardship exists as a result of proceedings under this chapter, or, in the absence of such wardship, in the county where the child resides.

(2) If the proceeding is based on allegations of jurisdiction under ORS 419B.100 (1)(a), (b) or (c), the proceeding may also commence in the county in which the alleged act or behavior took place.

(3) If the proceeding is based on allegations of jurisdiction under ORS 419B.100 (1)(b), (c), (d), (e) or (f), the proceedings may also commence in the county where the child is present when the proceeding begins.

(4) A termination of parent-child relationship proceeding may be commenced in the county of wardship or where the child or ward resides or is found unless the child is an Indian child subject to the Indian Child Welfare Act and the tribal court has assumed jurisdiction. [1993 c.33 §54; 1993 c.546 §26; 2003 c.396 §36]

419B.121 Return of runaway children to another state. Notwithstanding ORS 419C.145, the court may order the detention of a child who resides in another state if the court finds probable cause to believe that the

child has run away from home or from a placement. If a child is ordered detained under this section, the court shall make such orders as are necessary to cause the child to be immediately returned to the child's state of residence. [1993 c.33 §55]

419B.124 Transfer to juvenile court from another court. If during the pendency of a proceeding in any court other than a juvenile court it is ascertained that the age of the person who is the subject of the proceeding is such that the matter is within the exclusive jurisdiction of the juvenile court, it is the duty of the court in which the proceeding is pending forthwith to transfer the proceeding, together with all the papers, documents and testimony connected therewith, to the juvenile court of the county in which the proceeding is pending. [1993 c.33 §56]

419B.127 Transfer to court of county of child or ward's residence. If a proceeding is initiated in a court of a county other than the county in which the child resides, that court, on its own motion or on the motion of a party made at any time prior to disposition, shall transfer the proceeding to the court of the county of the child's residence for such further proceeding as the receiving court finds proper. A like transfer may be made if the residence of a child or ward changes during the proceeding, or if the ward has been adjudicated within the jurisdiction of the court when the proceeding is initiated on grounds specified in ORS 419B.100 (1)(b) or (c) and other proceedings involving the ward are pending in the county of the ward's residence. Certified copies of the court records pertaining to the immediate proceeding shall accompany the case on transfer. [1993 c.33 §57; 2003 c.396 §37]

419B.130 Delegation of jurisdiction by county of residence. Where a juvenile court proceeding is pending in a county other than the county in which the child resides and the case is transferable under ORS 419B.124 or 419B.127, the juvenile court of the county in which the child resides may authorize the court in which the case is pending to proceed with the case in either of the following ways where it will facilitate disposition of the case without adverse effect on the interests of the child:

(1) To hear, determine and dispose of the case in its entirety; or

(2) Prior to transferring the case, to conduct a hearing into the facts alleged to bring the child within the jurisdiction of the juvenile court, to determine the facts and to certify its findings to the juvenile court of the county in which the child resides. [1993 c.33 §58]

419B.132 Delegation of jurisdiction among county juvenile courts. (1) When a proceeding is pending in the juvenile court of any county, the juvenile court of that county may authorize the juvenile court of any other county to do one or both of the following, when it will facilitate the disposition of the case without adverse effect on the interests of the child or ward:

(a) To conduct a hearing into the facts alleged to bring the child within the jurisdiction of the juvenile court, to determine the facts and to certify its findings to the court in which the case is pending.

(b) To assume jurisdiction over the case and administer protection supervision of the ward, when the court in which the proceeding is pending:

(A) Finds that the ward has moved to the other county or orders as part of its disposition of the proceeding that legal custody of the ward be given to a person residing in the other county; and

(B) Is advised that the court of the other county will accept the wardship and jurisdiction of the case. The county accepting wardship and jurisdiction shall pay the cost of administering protective supervision of the ward, unless the transferring and receiving counties otherwise agree. The county transferring jurisdiction shall pay the cost of transporting the ward, unless the transferring and receiving counties otherwise agree.

(2) When the juvenile court of one county is authorized by the juvenile court of another county to conduct a hearing into facts as provided in this section or ORS 419B.130, the facts so found and certified may be taken as established by the court of the county authorizing the hearing and, if adopted by written order of the latter court, form a part of its record in the case. [1993 c.33 §59; 2003 c.396 §38]

419B.135 Transfer of case; transportation of child or ward. If the child or ward who is the subject of the proceeding is, at the time of a transfer or temporary transfer provided for in ORS 419B.127, 419B.130 and 419B.132, in shelter care or for other reason needs transportation to the other county, the county in which the child or ward resides shall make such order or provision for the transportation and safekeeping of the child or ward as is appropriate in the circumstances, including an order directing any peace officer of the county in which the child or ward resides to transfer the child or ward in the manner directed. [1993 c.33 §60; 2003 c.396 §39]

(Protective Custody)

419B.150 When protective custody authorized; disposition of runaway child taken into protective custody. (1) A child may be taken into protective custody by a peace officer, counselor, employee of the Department of Human Services or any other person authorized by the juvenile court of the county in which the child is found, in the following circumstances:

(a) When the child's condition or surroundings reasonably appear to be such as to jeopardize the child's welfare;

(b) When the juvenile court, by order indorsed on the summons as provided in ORS 419B.839 or otherwise, has ordered that the child be taken into protective custody; or

(c) When it reasonably appears that the child has run away from home.

(2)(a) Before issuing an order under subsection (1)(b) of this section, the court shall review an affidavit sworn on information and belief provided by a peace officer, counselor or employee of the department or other person authorized by the juvenile court that sets forth with particularity the facts and circumstances on which the request for protective custody is based, why protective custody is in the best interests of the child and the reasonable efforts or, if the Indian Child Welfare Act applies, active efforts made by the department to eliminate the need for protective custody of the child.

(b) Except as provided in paragraph (c) of this subsection, an order directing that a child be taken into protective custody under subsection (1) of this section shall contain written findings, including a brief description of the reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to eliminate the need for protective custody of the child that the department has made and why protective custody is in the best interests of the child.

(c) The court may issue an order even though no services have been provided if the court makes written findings that no existing services could eliminate the need for protective custody of the child and that protective custody is in the best interests of the child.

(3) When a child is taken into protective custody as a runaway under subsection (1) of this section, the peace officer or other person who takes the child into custody:

(a)(A) Shall release the child without unnecessary delay to the custody of the child's parent or guardian or to a shelter facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services; or

(B) Shall follow the procedures described in ORS 419B.160, 419B.165, 419B.168 and 419B.171;

(b) Shall, if possible, determine the preferences of the child and the child's parent or guardian as to whether the best interests of the child are better served by placement in a shelter facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services or by release to the child's parent or guardian; and

(c) Notwithstanding ORS 419B.165 and subsection (1) of this section, shall release the child to a shelter facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services if it reasonably appears that the child would not willingly remain at home if released to the child's parent or guardian. [1993 c.33 §61; 1993 c.546 §27; 1997 c.873 §10; 1999 c.691 §1; amendments by 1999 c.691 §2 repealed by 2001 c.484 §1; 2001 c.622 §§46,47; 2001 c.686 §§1,2]

419B.155 Protective custody not arrest. (1) Protective custody shall not be deemed an arrest so far as the child is concerned.

(2) A peace officer taking a child into protective custody has all the privileges and immunities of a peace officer making an arrest. [1993 c.33 §62; 1993 c.546 §28]

419B.157 Jurisdiction attaches at time of custody. Except as otherwise provided in ORS 419B.168, 419C.094 and 419C.103, the jurisdiction of the juvenile court of the county in which a child is taken into protective custody shall attach from the time the child is taken into custody. [1993 c.33 §63; 1993 c.546 §29]

419B.160 Place of detention; record; parental notice required. (1) A child or ward may not be detained at any time in a police station, jail, prison or other place where adults are detained, except that a child or ward may be detained in a police station for up to five hours when necessary to obtain the child or ward's name, age, residence and other identifying information.

(2) All peace officers shall keep a record of children taken into protective custody and shall promptly notify the juvenile court or counselor of all children taken into protective custody.

(3) As soon as practicable after the child is taken into custody, the person taking the child into custody shall notify the child's parent, guardian or other person responsible for the child. The notice shall inform the parent, guardian or other person of the action taken and the time and place of the

hearing. [1993 c.33 §64; 1993 c.320 §1; 1993 c.546 §30; 2003 c.396 §40]

419B.165 Release of child taken into custody. The person taking the child into custody shall release the child to the custody of the child's parent or other responsible person in this state, except in the following cases:

(1) Where the court has issued an order directing that the child be taken into protective custody.

(2) Where the person taking the child into custody has probable cause to believe that the welfare of the child or others may be immediately endangered by the release of the child. [1993 c.33 §65; 1993 c.546 §31]

419B.168 Procedure when child is not released. (1) If a child taken into protective custody is not released as provided in ORS 419B.165 and the juvenile court for the county has not established the alternative procedure authorized in subsection (4) of this section, the person taking the child into custody shall, without unnecessary delay, do one of the following:

(a) Take the child before the court or a person appointed by the court to effect disposition under ORS 419B.165.

(b) Take the child to a place of detention or shelter care or a public or private agency designated by the court and as soon as possible thereafter notify the court that the child has been taken into custody.

(2) Where a child residing in some other county is taken into protective custody the child may be:

(a) Released to the child's parent or other responsible person in this state as provided in ORS 419B.165.

(b) Delivered to a peace officer or juvenile counselor in the county in which the child resides, if such delivery can be made without unnecessary delay. In such event, the person to whom the child is delivered shall assume protective custody of the child and shall proceed as provided in this chapter.

(3) Where a child is released or delivered as provided in subsection (2) of this section, the jurisdiction of the juvenile court of the county in which the child resides shall attach from the time the child is taken into custody.

(4) The juvenile court may establish, as an alternative to the provisions of subsection (1) of this section, that if a child taken into protective custody is not released as provided in ORS 419B.165, procedures shall be followed that comply with the following:

(a) The person taking the child into custody may communicate, by telecommunications or otherwise, with the person appointed by the court to effect disposition under ORS 419B.175.

(b) After interviewing the person taking the child into custody and obtaining such other information as is considered necessary, the person appointed by the court under ORS 419B.175 to effect disposition may exercise the authority granted under that section and shall, in such case, direct that the person taking the child into custody release the child or deliver the child in accordance with such direction.

(c) The person taking the child into custody shall comply with the direction of the person appointed by the court to effect disposition. [1993 c.33 §66; 1993 c.546 §32]

419B.171 Report required when child is taken into custody. Except where the child is taken into custody pursuant to an order of the court, the person taking the child into custody shall promptly file with the court or a counselor a brief written report stating all of the following:

(1) The child's name, age and address.

(2) The name and address of the person having legal or physical custody of the child.

(3) Efforts to notify the person having legal or physical custody of the child and the results of those efforts.

(4) Reasons for and circumstances under which the child was taken into protective custody.

(5) If the child is not taken to court, the placement of the child.

(6) If the child was not released, the reason why the child was not released.

(7) If the child is not taken to court, why the type of placement was chosen.

(8) Efforts to determine whether the child or the parents have any Indian heritage and the results of those efforts. If the child is an Indian child, the placement of the child shall be according to the preferences and criteria set out in the Indian Child Welfare Act. [1993 c.33 §67; 1993 c.546 §33]

419B.175 Initial disposition of child taken into custody. (1) This subsection establishes the authority and procedures that apply to a person designated by a court to effect disposition of a child taken into protective custody or brought before the court under ORS 419B.160, 419B.165, 419B.168 or 419B.171. The person shall, when the person has taken custody of a child or has authority to effect disposition of a child taken into custody:

(a) Release the child to the custody of a parent, guardian or other responsible person;

(b) Release the child on the child's own recognizance when appropriate;

(c) Subject to ORS 419B.121 or 419B.180, place the child in shelter care or detention. The child shall be placed in shelter care rather than detention, unless the person has probable cause to believe that the court will be able to detain the child under ORS 419B.121; or

(d) Pursuant to order of the court made after the filing of a petition, hold, retain or place the child in shelter care subject to further order.

(2) If the child is released under subsection (1)(a) of this section, the person releasing the child shall inform the juvenile court. [1993 c.33 §69; 1993 c.546 §35]

(Shelter Hearings)

419B.180 Shelter and detention facilities. The juvenile court of each county shall designate the place or places in which children are to be placed in detention or shelter care when taken into protective custody. If the county is adjacent to another state, the court may designate a place or places in the adjoining state where children, pursuant to an agreement between such place or places and the juvenile department of the county, may be placed in detention when taken into custody. A county juvenile department shall not enter into an agreement with an out-of-state place for detention of juveniles, as provided in this section, unless the place or places conform to standards of this state for such a place and unless the agreement includes a provision that the place be subject to inspection by officers of this state under ORS 419A.061. [1993 c.33 §68; 1993 c.546 §34]

419B.183 Speedy hearing required. A child or ward may not be held in detention or shelter care more than 24 hours, excluding Saturdays, Sundays and judicial holidays, except on order of the court made pursuant to a hearing. [1993 c.33 §70; 2003 c.396 §41]

419B.185 Evidentiary hearing. (1) When a child or ward is taken, or is about to be taken, into protective custody pursuant to ORS 419B.150, 419B.160, 419B.165, 419B.168 and 419B.171 and placed in detention or shelter care, a parent, child or ward shall be given the opportunity to present evidence to the court at the hearings specified in ORS 419B.183, and at any subsequent review hearing, that the child or ward can be returned home without further danger of suffering physical injury or emotional harm, endangering or harming others, or not remaining within the reach of the court process prior to adjudication. At the hearing:

(a) The court shall make written findings as to whether the Department of Human Services has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child or ward from the home and to make it possible for the child or ward to safely return home. When the court finds that no services were provided but that reasonable services would not have eliminated the need for protective custody, the court shall consider the department to have made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for protective custody. The court shall include in the written findings a brief description of the preventive and reunification efforts made by the department.

(b) In determining whether a child or ward shall be removed or continued out of home, the court shall consider whether the provision of reasonable services can prevent or eliminate the need to separate the family.

(c) In determining whether the department has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child or ward from the home and to make it possible for the child or ward to safely return home, the court shall consider the child or ward's health and safety the paramount concerns.

(d) The court shall make a written finding in every order of removal that describes why it is in the best interests of the child or ward that the child or ward be removed from the home or continued in care.

(e) When the court determines that a child or ward shall be removed from the home or continued in care, the court shall make written findings whether the department made diligent efforts pursuant to ORS 419B.192. The court shall include in its written findings a brief description of the efforts made by the department.

(f) The court shall determine whether the child or ward is an Indian child as defined in ORS 419A.004 or in the applicable State-Tribal Indian Child Welfare Agreement.

(g) The court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant to the determinations and findings required under this section. As used in this paragraph, "relevant evidence" has the meaning given that term in ORS 40.150.

(2) To aid the court in making the written findings required by subsection (1)(a), (d) and (e) of this section, the department shall present written documentation to the court outlining:

(a) The efforts made to prevent taking the child or ward into protective custody and

to provide services to make it possible for the child or ward to safely return home;

(b) The efforts the department made pursuant to ORS 419B.192; and

(c) Why protective custody is in the best interests of the child or ward. [1993 c.33 §71; 1993 c.295 §5; 1993 c.546 §123; 1997 c.873 §19; 1999 c.859 §8; 2001 c.686 §3; 2003 c.355 §1; 2003 c.396 §42; 2007 c.806 §4]

419B.190 [1993 c.295 §2; 1997 c.863 §3; 1999 c.65 §1; 2001 c.622 §37; renumbered 419B.845 in 2001]

(Placement of Child or Ward)

419B.192 Placement of child or ward; preference given to relatives and caregivers; written findings of court required. (1) If the court finds that a child or ward is in need of placement or continuation in substitute care, there shall be a preference given to placement of the child or ward with relatives and persons who have a caregiver relationship with the child or ward as defined in ORS 419B.116. The Department of Human Services shall make diligent efforts to place the child or ward with such persons and shall report to the court the efforts made by the department to effectuate that placement.

(2) If a child or ward in need of placement or continuation in substitute care has a sibling also in need of placement or continuation in substitute care, 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.

(3) In attempting to place the child or ward pursuant to subsections (1) and (2) of this section, the department shall consider, but not be limited to considering, 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) 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) 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) 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 (1) of this section, and the court determines that, contrary to the placement decision of the department, placement with a relative 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 is not in the best interest of the child.

(5) Notwithstanding subsections (1) to (3) of this section, in cases where the Indian Child Welfare Act applies, the placement preferences of the Indian Child Welfare Act shall be followed. [1997 c.479 §4; 1999 c.569 §9; 2003 c.396 §43; 2005 c.449 §1; 2005 c.521 §2; 2007 c.806 §5; 2009 c.565 §1]

(Counsel)

419B.195 Appointment of counsel for child or ward; access of appointed counsel to records of child or ward. (1) If the child, ward, parent or guardian requests counsel for the child or ward but is without sufficient financial means to employ suitable counsel possessing skills and experience commensurate with the nature of the petition and the complexity of the case, the court may appoint suitable counsel to represent the child or ward at state expense if the child or ward is determined to be financially eligible under the policies, procedures, standards and guidelines of the Public Defense Services Commission. Whenever requested to do so, the court shall appoint counsel to represent the child or ward in a case filed pursuant to ORS 419B.100. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the Public Defense Services Commission.

(2) Upon presentation of the order of appointment under this section by the attorney for the child or ward, any agency, hospital, school organization, division or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the attorney to inspect and copy any records of the child or ward involved in the case, without the consent of the child or ward or parents. This subsection does not apply to records of a police agency relating

to an ongoing investigation prior to charging. [1993 c.33 §72; 1993 c.234 §1; 1993 c.546 §38; 2001 c.962 §43; 2003 c.396 §§44,45; 2003 c.449 §§9,46]

419B.198 Responsibility for payment of costs related to provision of appointed counsel for child or ward. (1) When the court appoints counsel to represent a child or ward, it may order the parent, if able, or guardian of the estate, if the estate is able, to pay to the Public Defense Services Account in the General Fund, through the clerk of the court, in full or in part the administrative costs of determining the ability of the parents or estate to pay for legal services and the costs of the legal and other services that are related to the provision of appointed counsel.

(2) The test of the parent's or estate's ability to pay costs under subsection (1) of this section is the same test as applied to appointment of counsel for defendants under ORS 135.050 or under the policies, procedures, standards and guidelines adopted under ORS 151.216. If counsel is provided at state expense, the court shall apply this test in accordance with the guidelines adopted by the Public Defense Services Commission under ORS 151.485.

(3) If counsel is provided at state expense, the court shall determine the amount the parents or estate is required to pay for the costs of administrative, legal and other services related to the provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.

(4) The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408. [1993 c.33 §73; 1997 c.761 §6; 2001 c.962 §44; 2003 c.396 §§46,47; 2003 c.449 §10]

419B.201 Compensation for court-appointed counsel for child or ward under ORS 135.055. When the court appoints counsel for the child or ward and the child or ward is determined to be entitled to, and financially eligible for, appointment of counsel at state expense, and the parent or guardian is without sufficient financial means to employ counsel, the compensation for counsel and reasonable fees and expenses of investigation, preparation and presentation paid or incurred shall be determined and paid as provided in ORS 135.055. [1993 c.33 §74; 2001 c.962 §45; 2003 c.396 §§48,49; 2003 c.449 §30]

419B.205 Appointment of counsel for parent or legal guardian. (1) Counsel shall be appointed for the parent or legal guardian whenever the nature of the proceedings and due process so require, and when the parent or legal guardian has been determined by the court to be eligible to receive appointed counsel under the standard in ORS 135.050 or the policies, procedures, standards and guidelines adopted under ORS 151.216. In deciding whether to appoint counsel under this section, the court shall consider the following factors:

(a) The duration and degree of invasiveness of the interference with the parent-child relationship that possibly could result from the proceeding;

(b) The complexity of the issues and evidence;

(c) The nature of allegations and evidence contested by the parent or legal guardian; and

(d) The effect the facts found or the disposition in the proceeding may have on later proceedings or events, including but not limited to termination of parental rights or criminal proceedings.

(2) The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines adopted under ORS 151.216. [1993 c.33 §75; 2001 c.962 §46; 2003 c.449 §§11,47]

419B.208 Other law applicable to appointment of counsel. Appointment of counsel for the child, ward or parent is subject to ORS 135.055, 151.216 and 151.219. [1993 c.33 §76; 2001 c.962 §47; 2003 c.396 §§50,51]

419B.211 Motion to withdraw as counsel. (1) When a parent or guardian is required to appear at a hearing related to a petition to establish jurisdiction or a petition to establish permanent guardianship or terminate parental rights, if the parent or guardian fails to appear at the hearing without reasonable explanation, the attorney for the parent or guardian may move to withdraw from representing the parent or guardian.

(2) The attorney shall explain to the court the basis for a motion to withdraw under this section.

(3) The court may grant a motion to withdraw as counsel under this section. [2007 c.497 §2]

(Educational Surrogate)

419B.220 Appointment of surrogate. (1) Upon the request of any party, the court shall appoint a surrogate for a child who is temporarily or permanently in the custody of, or committed to, a public or private agency through the action of the juvenile court if:

(a) The court finds that the child may be eligible for special education programs because of a disabling condition as provided in ORS chapter 343;

(b) The child does not already have a surrogate appointed by a school district or other educational agency; and

(c) The requesting party nominates a person who is willing to serve as the surrogate and who meets the requirements described in subsection (2) of this section.

(2) A surrogate appointed under this section:

(a) May not be an employee of the state educational agency, a school district or any other agency that is involved in the education or care of the child;

(b) May not have a conflict of interest that would interfere with the surrogate representing the special education interests of the child;

(c) Shall have knowledge and skills that ensure that the surrogate can adequately represent the child in special education decisions; and

(d) May not be a person who is the child's parent, guardian or former guardian if:

(A) At any time while the child was under the care, custody or control of the person, a court entered an order:

(i) Taking the child into protective custody under ORS 419B.150; or

(ii) Committing the child to the legal custody of the Department of Human Services for care, placement and supervision under ORS 419B.337; and

(B) The court entered a subsequent order that:

(i) The child should be permanently removed from the person's home, or continued in substitute care, because it was not safe for the child to be returned to the person's home, and no subsequent order of the court was entered that permitted the child to return to the person's home before the child's wardship was terminated under ORS 419B.328; or

(ii) Terminated the person's parental rights under ORS 419B.500 and 419B.502 to 419B.524. [1993 c.33 §77; 2005 c.662 §14; 2011 c.194 §8]

419B.223 Duties and tenure of surrogate. A person that is appointed surrogate for a ward has the duty and authority to protect the due process rights of the ward with respect to the provision of free appropriate public education. A surrogate appointed by the court shall immediately apply to the attending school district for an evaluation of the ward's eligibility for special education and shall participate in the development of the ward's educational plan as provided in ORS chapter 343. The duties and responsibilities of the surrogate shall continue until whichever of the following occurs first:

(1) The ward is 21 years of age;

(2) The ward is determined to be no longer eligible for special education; or

(3) The juvenile court terminates wardship and determines that the child's parent or guardian is both known and available to protect the special educational rights of the child. [1993 c.33 §78; 2003 c.396 §52]

419B.230 [1993 c.33 §85; 1993 c.546 §39; repealed by 2001 c.622 §57]

(Guardian Ad Litem for Parent)

419B.231 Appointment; hearing; findings. (1) In a proceeding under this chapter, including a proceeding for the termination of parental rights, the court, on its own motion or on the written or oral motion of a party in the proceeding, may appoint a guardian ad litem for a parent involved in the proceeding as provided in this section.

(2) The court shall conduct a hearing to determine whether to appoint a guardian ad litem in a proceeding under this chapter if:

(a) A party moves for the appointment and the affidavit or oral representations submitted in support of the motion state facts that, if proved at a hearing under this section, would establish that it is more probable than not that:

(A) Due to the parent's mental or physical disability or impairment, the parent lacks substantial capacity either to understand the nature and consequences of the proceeding or to give direction and assistance to the parent's attorney on decisions the parent must make in the proceeding; and

(B) The appointment of a guardian ad litem is necessary to protect the parent's rights in the proceeding during the period of the parent's disability or impairment; or

(b) The court has a reasonable belief that:

(A) Due to the parent's mental or physical disability or impairment, the parent lacks substantial capacity either to understand the nature and consequences of the proceeding or to give direction and assistance to the parent's attorney on decisions the parent must make in the proceeding; and

(B) The appointment of a guardian ad litem is necessary to protect the parent's rights in the proceeding during the period of the parent's disability or impairment.

(3)(a) A court may not appoint a guardian ad litem under this section unless the court conducts a hearing. At the hearing, the court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is:

(A) Relevant to the findings required under this section; and

(B) Of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs.

(b) For purposes of this subsection, evidence is relevant if it is "relevant evidence" as defined in ORS 40.150.

(4) A court may not appoint a guardian ad litem for a parent unless the court finds by a preponderance of the evidence presented at the hearing that:

(a) Due to the parent's mental or physical disability or impairment, the parent lacks substantial capacity either to understand the nature and consequences of the proceeding or to give direction and assistance to the parent's attorney on decisions the parent must make in the proceeding; and

(b) The appointment of a guardian ad litem is necessary to protect the parent's rights in the proceeding during the period of the parent's disability or impairment.

(5) The fact that a guardian ad litem has been appointed under this section may not be used as evidence of mental or emotional illness in any juvenile court proceeding, any civil commitment proceeding or any other civil proceeding. [2005 c.450 §2]

419B.233 [1993 c.33 §87; repealed by 2001 c.622 §57]

419B.234 Qualifications; duties; privilege. (1) A person appointed as a guardian ad litem under ORS 419B.231:

(a) Must be a licensed mental health professional or attorney;

(b) Must be familiar with legal standards relating to competence;

(c) Must have skills and experience in representing persons with mental and physical disabilities or impairments; and

(d) May not be a member of the parent's family.

(2) The guardian ad litem is not a party in the proceeding but is a representative of the parent.

(3) The guardian ad litem shall:

(a) Consult with the parent, if the parent is able, and with the parent's attorney and make any other inquiries as are appropriate to assist the guardian ad litem in making decisions in the juvenile court proceeding.

(b) Make legal decisions that the parent would ordinarily make concerning the juvenile court proceeding including, but not limited to, whether to:

(A) Admit or deny the allegations of any petition;

(B) Agree to or contest jurisdiction, wardship, temporary commitment, guardianship or permanent commitment;

(C) Accept or decline a conditional postponement; or

(D) Agree to or contest specific services or placement.

(c) Make decisions concerning the adoption of a child of the parent including release or surrender, certificates of irrevocability and consent to adoption under ORS 109.312 or 418.270 and agreements under ORS 109.305.

(d) Control the litigation and provide direction to the parent's attorney on the decisions that would ordinarily be made by the parent in the proceeding.

(e) Inform the court if the parent no longer needs a guardian ad litem.

(4) In making decisions under subsection (3) of this section, the guardian ad litem shall make the decisions consistent with what the guardian ad litem believes the parent would decide if the parent did not lack substantial capacity to either understand the nature and consequences of the proceeding or give direction or assistance to the parent's attorney on decisions the parent must make in the proceeding.

(5) The parent's attorney shall follow directions provided by the guardian ad litem on decisions that are ordinarily made by the parent in the proceeding. The parent's attorney shall inquire at every critical stage in the proceeding as to whether the parent's competence has changed and, if appropriate, shall request removal of the guardian ad litem.

(6)(a) A parent for whom a guardian ad litem has been appointed under ORS 419B.231 has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional services to the parent:

(A) Between the guardian ad litem and the parent's attorney or a representative of the attorney; or

(B) Between the guardian ad litem and the parent.

(b) The privilege created by this subsection:

(A) May be claimed by the parent or the guardian ad litem. The guardian ad litem may claim the privilege only on behalf of the parent.

(B) Is subject to ORS 40.280, 40.285 and 40.290. [2005 c.450 §3]

419B.236 [1993 c.33 §88; repealed by 2001 c.622 §57]

419B.237 Duration of appointment; compensation. (1) The appointment of a guardian ad litem under ORS 419B.231 continues until:

(a) The court terminates the appointment;

(b) The juvenile court proceeding is dismissed; or

(c) The parent's parental rights are terminated, unless the court continues the appointment.

(2) A party to the proceeding or the attorney for the parent for whom a guardian ad litem has been appointed may request removal of the guardian ad litem. The court:

(a) Shall remove the guardian ad litem if the court determines that the parent no longer lacks substantial capacity either to understand the nature and consequences of the proceeding or to give direction and assistance to the parent's attorney on decisions the parent must make in the proceeding; or

(b) May remove the guardian ad litem on other grounds as the court determines appropriate.

(3) The Public Defense Services Commission shall compensate a guardian ad litem for duties the guardian ad litem performs in the proceeding from funds appropriated to the commission. [2005 c.450 §4]

419B.239 [1993 c.33 §89; 1993 c.546 §40; repealed by 2001 c.622 §57]

419B.242 [1993 c.33 §90; 1993 c.546 §41; repealed by 2001 c.622 §57]

419B.245 [1993 c.33 §91; 2001 c.622 §38; renumbered 419B.872 in 2001]

419B.260 [1993 c.546 §43 (enacted in lieu of 1993 c.33 §92); 1997 c.707 §31; 1997 c.873 §12; 1999 c.302 §1; 2001 c.622 §36; renumbered 419B.806 in 2001]

419B.265 [1993 c.33 §93; 1993 c.546 §44; 1995 c.273 §21; repealed by 2001 c.622 §57]

419B.268 [1993 c.33 §94; 1993 c.295 §3; 1993 c.546 §45; repealed by 2001 c.622 §57]

419B.271 [1993 c.33 §95; 1993 c.295 §4; 1993 c.546 §46; 1995 c.273 §22; repealed by 2001 c.622 §57]

419B.274 [1993 c.33 §96; repealed by 2001 c.622 §57]

419B.277 [1993 c.33 §97; 1993 c.546 §47; repealed by 2001 c.622 §57]

419B.280 [1993 c.33 §98; renumbered 419B.827 in 2001]

419B.282 [1993 c.33 §99; 2001 c.622 §48; renumbered 419B.842 in 2001]

419B.285 [1993 c.33 §100; 1993 c.546 §48; 2001 c.622 §41; renumbered 419B.914 in 2001]

419B.300 [1993 c.546 §50; 2001 c.622 §40; renumbered 419B.881 in 2001]

(Hearings)

419B.305 When hearing must be held; continuation; priority. (1) Except as otherwise provided in this section, no later than 60 days after a petition alleging that a child is within the jurisdiction of the court under ORS 419B.100 has been filed, the court shall hold a hearing on the petition and enter an order under ORS 419B.325 (1). Upon written order supported by factual findings of good cause, the court may continue a petition beyond 60 days.

(2) No later than 30 days after a petition alleging jurisdiction under ORS 419B.100 is filed all parties shall comply with ORS 419B.881.

(3) When a person denies allegations in the petition, the court shall set the case for a hearing within the time limits prescribed by subsection (1) of this section. Upon written order supported by factual findings of good cause, the court may continue the hearing beyond the 60-day time limit.

(4) Upon expiration of any continuance granted by this section, the court shall give a petition filed under ORS 419B.100 that is beyond the time limit imposed by subsection (1) of this section the highest priority on the court docket. [1997 c.873 §18; 1999 c.859 §9; 2001 c.622 §53]

419B.310 Conduct of hearings. (1) The hearing shall be held by the court without a jury and may be continued from time to time. During the hearing of a case filed pursuant to ORS 419B.100, the court, on its own motion or upon the motion of a party, may take testimony from any child appearing as a witness and may exclude the child's parents and other persons if the court finds such action would be likely to be in the best interests of the child. However, the court shall not exclude the attorney for each party and the testimony shall be reported.

(2) Stenographic notes or other report of the hearings shall be taken only when required by the court.

(3) The facts alleged in the petition showing the child to be within the jurisdiction of the court as provided in ORS 419B.100 (1), unless admitted, must be established by a preponderance of competent evidence. [1993 c.33 §101; 1993 c.546 §51; 2001 c.622 §54]

419B.315 [1993 c.546 §53; 2001 c.622 §55; renumbered 419B.884 in 2001]

419B.317 [1993 c.33 §102; repealed by 2001 c.622 §57]

419B.320 [1993 c.33 §103; 2001 c.104 §151; 2001 c.338 §1; 2001 c.962 §48; renumbered 419B.908 in 2001]

(Disposition)

419B.325 Disposition required; evidence. (1) At the termination of the hearing or hearings in the proceeding, the court shall enter an appropriate order directing the disposition to be made of the case.

(2) For the purpose of determining proper disposition of the ward, testimony, reports or other material relating to the ward's mental, physical and social history and prognosis may be received by the court without regard to their competency or relevancy under the rules of evidence. [1993 c.33 §104; 2003 c.396 §53]

419B.328 Ward of the court; duration of wardship. (1) The court shall make a child found to be within the jurisdiction of the court as provided in ORS 419B.100 a ward of the court.

(2) The court's wardship continues, and the ward is subject to the court's jurisdiction, until one of the following occurs:

(a) The court dismisses the petition concerning the ward;

(b) The court transfers jurisdiction over the ward as provided in ORS 419B.127, 419B.130 and 419B.132;

(c) The court enters an order terminating the wardship;

(d) A judgment of adoption of the ward is entered by a court of competent jurisdiction; or

(e) The ward becomes 21 years of age. [1993 c.33 §105; 1995 c.422 §70; 2003 c.396 §54; 2003 c.576 §447]

419B.331 When protective supervision authorized; conditions that may be imposed. When the court determines it would be in the best interest and welfare of a ward, the court may place the ward under protective supervision. The court may direct that the ward remain in the legal custody of the ward's parents or other person with whom the ward is living, or the court may direct that the ward be placed in the legal custody of some relative or some person maintaining a foster home approved by the court, or in a child care center or a youth care center authorized to accept the ward. The court may specify particular requirements to be observed during the protective supervision consistent with recognized juvenile court practice, including but not limited to restrictions on visitation by the ward's parents, restrictions on the ward's associates, occupation and activities, restrictions on and requirements to be observed by the person having the ward's legal custody, and requirements for visitation by and consultation with a juvenile counselor or other suitable counselor. [1993 c.33 §106; 2003 c.396 §55]

419B.334 Placement out of state. When the court determines it would be in the best interest and welfare of a ward, the court may, if there is an interstate compact or agreement or an informal arrangement with another state permitting the ward to reside in another state while under protective supervision, or to be placed in an institution or with an agency in another state, place the ward under protective supervision in such other state. [1993 c.33 §107; 2003 c.396 §56]

419B.337 Commitment to custody of Department of Human Services. (1) When the court determines it would be in the best interest and for the welfare of a ward, the court may place the ward in the legal custody of the Department of Human Services for care, placement and supervision. When the court enters an order removing a ward from the ward's home or an order continuing care, the court shall make a written finding as to whether:

(a) Removal of the ward from the ward's home or continuation of care is in the best interest and for the welfare of the ward;

(b) Reasonable efforts, considering the circumstances of the ward and parent, have been made to prevent or eliminate the need for removal of the ward from the home or to make it possible for the ward to safely return home. In making this finding, the court shall consider the ward's health and safety the paramount concerns; and

(c) Diligent efforts have been made to place the ward pursuant to ORS 419B.192.

(2) The court may specify the particular type of care, supervision or services to be provided by the Department of Human Services to wards placed in the department's custody and to the parents or guardians of the wards, but the actual planning and provision of such care, supervision or services is the responsibility of the department. The department may place the ward in a child care center authorized to accept the ward.

(3) The court may make an order regarding visitation by the ward's parents or siblings. The Department of Human Services is responsible for developing and implementing a visitation plan consistent with the court's order.

(4) Uniform commitment blanks, in a form approved by the Director of Human Services, shall be used by all courts for placing wards in the legal custody of the Department of Human Services.

(5) If the ward has been placed in the custody of the Department of Human Services, the court shall make no commitment directly to any residential facility, but shall cause the ward to be delivered into the custody of the department at the time and place fixed by rules of the department. A ward so committed may not be placed in a Department of Corrections institution.

(6) Commitment of a ward to the Department of Human Services continues until dismissed by the court or until the ward becomes 21 years of age.

(7) A court may dismiss commitment of a ward to the Department of Human Services if:

(a)(A) Dismissal is appropriate because the ward has been safely reunited with a parent or because a safe alternative to reu-

nification has been implemented for the ward; and

(B) The ward is at least 14 years of age but less than 21 years of age and the court finds that:

(i) The department has provided case planning pursuant to ORS 419B.343 that addresses the ward's needs and goals for a successful transition to independent living, including needs and goals relating to housing, physical and mental health, education, employment, community connections and supportive relationships;

(ii) The department has provided appropriate services pursuant to the case plan;

(iii) The department has involved the ward in the development of the case plan and in the provision of appropriate services; and

(iv) The ward has safe and stable housing and is unlikely to become homeless as a result of dismissal of commitment of the ward to the department; or

(b) The ward has been committed to the custody of the Oregon Youth Authority. [1993 c.33 §108; 1993 c.546 §129; 1999 c.859 §10; 2003 c.396 §57; 2005 c.679 §1; 2007 c.806 §6]

419B.340 Reasonable or active efforts determination. (1) If the court awards custody to the Department of Human Services, the court shall include in the disposition order a determination whether the department has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for removal of the ward from the home. If the ward has been removed prior to the entry of the order, the order shall also include a determination whether the department has made reasonable or active efforts to make it possible for the ward to safely return home. In making the determination under this subsection, the court shall consider the ward's health and safety the paramount concerns.

(2) In support of its determination whether reasonable or active efforts have been made by the department, the court shall enter a brief description of what preventive and reunification efforts were made and why further efforts could or could not have prevented or shortened the separation of the family.

(3) When the first contact with the family has occurred during an emergency in which the ward could not remain without jeopardy at home even with reasonable services being provided, the department shall be considered to have made reasonable or active efforts to prevent or eliminate the need for removal.

(4) When the court finds that preventive or reunification efforts have not been reasonable or active, but further preventive or reunification efforts could not permit the ward to remain without jeopardy at home, the court may authorize or continue the removal of the ward.

(5) If a court determines that one of the following circumstances exist, the juvenile court may make a finding that the department is not required to make reasonable efforts to make it possible for the ward to safely return home:

(a) Aggravated circumstances including, but not limited to, the following:

(A) The parent by abuse or neglect has caused the death of any child;

(B) The parent has attempted, solicited or conspired, as described in ORS 161.405, 161.435 or 161.450 or under comparable laws of any jurisdiction, to cause the death of any child;

(C) The parent by abuse or neglect has caused serious physical injury to any child;

(D) The parent has subjected any child to rape, sodomy or sexual abuse;

(E) The parent has subjected any child to intentional starvation or torture;

(F) The parent has abandoned the ward as described in ORS 419B.100 (1)(e); or

(G) The parent has unlawfully caused the death of the other parent of the ward;

(b) The parent has been convicted in any jurisdiction of one of the following crimes:

(A) Murder of another child of the parent, which murder would have been an offense under 18 U.S.C. 1111(a);

(B) Manslaughter in any degree of another child of the parent, which manslaughter would have been an offense under 18 U.S.C. 1112(a);

(C) Aiding, abetting, attempting, conspiring or soliciting to commit an offense described in subparagraph (A) or (B) of this paragraph; or

(D) Felony assault that results in serious physical injury to the ward or another child of the parent; or

(c) The parent's rights to another child have been terminated involuntarily.

(6) If, pursuant to a determination under subsection (5) of this section, the juvenile court makes a finding that the department is not required to make reasonable efforts to prevent or eliminate the need for removal of the ward from the home or to make it possible for the ward to safely return home, and the department determines that it will not make such efforts, the court shall conduct a permanency hearing as provided in ORS 419B.470 no later than 30 days after the ju-

dicial finding under subsection (5) of this section.

(7) When an Indian child is involved, the department must satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proven unsuccessful. Foster care placement may not be ordered in a proceeding in the absence of a determination, supported by clear and convincing evidence, including the testimony of expert witnesses, that the continued custody of the Indian child by the parent or Indian custodian is likely to result in serious emotional or physical injury to the Indian child. [1993 c.33 §109; 1993 c.546 §124; 1999 c.859 §11; 2001 c.686 §14; 2003 c.396 §58]

419B.343 Recommendations of committing court; case planning; plan contents. (1) To ensure effective planning for wards, the Department of Human Services shall take into consideration recommendations and information provided by the committing court before placement in any facility. The department shall ensure that the case planning in any case:

(a) For the reunification of the family bears a rational relationship to the jurisdictional findings that brought the ward within the court's jurisdiction under ORS 419B.100;

(b) Incorporates the perspective of the ward and the family and, whenever possible, allows the family to assist in designing its own service programs, based on an assessment of the family's needs and the family's solutions and resources for change; and

(c) Is integrated with other agencies in cooperation with the caseworkers.

(2) Except in cases when the plan is something other than to reunify the family, the department shall include in the case plan:

(a) Appropriate services to allow the parent the opportunity to adjust the parent's circumstances, conduct or conditions to make it possible for the ward to safely return home within a reasonable time; and

(b) A concurrent permanent plan to be implemented if the parent is unable or unwilling to adjust the parent's circumstances, conduct or conditions in such a way as to make it possible for the ward to safely return home within a reasonable time.

(3) Any time after a ward attains 14 years of age, if the department determines that it is appropriate, but in no case later than the date the ward attains 16 years of age, the department shall ensure that the case planning in the case addresses the ward's needs and goals for a successful transition to independent living, including needs and goals related to housing, physical and mental health, education, employment, community connections and supportive relationships.

(4) The case plan for a ward in substitute care must include the health and education records of the ward, including the most recent information available regarding:

(a) The names and addresses of the ward's health and education providers;

(b) The grade level of the ward's academic performance;

(c) The ward's school record;

(d) Whether the ward's placement takes into account proximity to the school in which the ward is enrolled at the time of placement;

(e) The ward's immunizations;

(f) Any known medical problems of the ward;

(g) The ward's medications; and

(h) Any other relevant health and education information concerning the ward that the department determines is appropriate to include in the records. [1993 c.33 §110; 1995 c.770 §1; 1997 c.873 §13; 1999 c.859 §12; 2001 c.686 §15; 2003 c.396 §59; 2003 c.544 §3a; 2007 c.611 §5]

419B.346 Medical planning. Whenever a ward who is in need of medical care or other special treatment by reason of physical or mental condition is placed in the custody of the Department of Human Services by the juvenile court, the department shall prepare a plan for care or treatment within 14 days after assuming custody of the ward. The court may indicate in general terms the type of care which it regards as initially appropriate. A copy of the plan, including a time schedule for its implementation, shall be sent to the juvenile court that committed the ward to the department. The court may at any time request regular progress reports on implementation of the plan. The department shall notify the court when the plan is implemented, and shall report to the court concerning the progress of the ward annually thereafter. If the plan is subsequently revised, the department shall notify the court of the revisions and the reasons for the revisions. [1993 c.33 §111; 2003 c.396 §60]

419B.349 Court authority to review placement. Commitment of a child or ward to the Department of Human Services does not terminate the court's continuing jurisdiction to protect the rights of the child or ward or the child or ward's parents or guardians. Notwithstanding ORS 419B.337 (5), if upon review of a placement of a child or ward made by the department the court determines that the placement is not in the best interest of the child or ward, the court

may direct the department to place the child or ward in the care of the child or ward's parents, in foster care with a foster care provider who is a relative, in foster care with another foster care provider, in residential care, in group care or in some other specific type of residential placement, but unless otherwise required by law, the court may not direct a specific placement. The actual planning and placement of the child or ward is the responsibility of the department. Nothing in this section affects any contractual right of a private agency to refuse or terminate a placement. [1993 c.33 §112; 1997 c.497 §1; 1997 c.764 §1; 2003 c.396 §61; 2007 c.235 §1; 2007 c.806 §13]

419B.350 [1997 c.873 §15; 1999 c.859 §13; repealed by 2001 c.686 §25]

419B.352 Hospitalization; mental health examination. The court may direct that the child or ward be examined or treated by a physician, psychiatrist or psychologist, or receive other special care or treatment in a hospital or other suitable facility. If the court determines that mental health examination and treatment should be provided by services delivered through the Department of Human Services, the department shall determine the appropriate placement or services in consultation with the court and other affected agencies. If an affected agency objects to the type of placement or services, the court shall determine the appropriate type of placement or service. During the examination or treatment of the child or ward, the department may, if appropriate, be appointed guardian of the child or ward. [1993 c.33 §113; 2001 c.900 §123; 2003 c.396 §62]

(Guardianships)

419B.365 Permanent guardianship; petition; when filed; procedure. (1) At any time following establishment of jurisdiction and wardship under ORS 419B.100, but prior to filing of a petition under ORS 419B.500, or after dismissal of a petition filed under ORS 419B.500 if it fails to result in termination of the parent's rights, a party, or person granted rights of limited participation for the purpose of filing a guardianship petition, may file, and the court may hear, a petition for permanent guardianship. If the Department of Human Services chooses not to participate in a proceeding initiated by an intervenor under ORS 419B.875, the state is not foreclosed from filing a subsequent action should the intervenor's petition be denied.

(2) The grounds for granting a permanent guardianship are the same as those for termination of parental rights.

(3) The court shall grant a permanent guardianship if it finds by clear and convincing evidence that:

(a) The grounds cited in the petition are true; and

(b) It is in the best interest of the ward that the parent never have physical custody of the ward but that other parental rights and duties should not be terminated.

(4) If an Indian child is involved, the permanent guardianship must be in compliance with the Indian Child Welfare Act. Notwithstanding subsection (3) of this section, the facts supporting any finding made to establish a permanent guardianship for an Indian child, including the finding that continued custody by the parents or Indian custodian would result in serious emotional or physical harm to the Indian child, must be established beyond a reasonable doubt.

(5) Unless vacated under ORS 419B.368, a guardianship established under this section continues as long as the ward is subject to the court's jurisdiction as provided in ORS 419B.328. [1997 c.873 §3; 1999 c.59 §119; 1999 c.859 §23; 2003 c.229 §6; 2003 c.396 §63a; 2007 c.333 §1]

419B.366 Guardianship; motion; procedure. (1) A party, or a person granted rights of limited participation for the purpose of filing a guardianship motion, may file a motion to establish a guardianship. The motion must be in writing and state with particularity the factual and legal grounds for the motion.

(2) Except as otherwise provided in subsection (3) of this section, the facts supporting any finding made or relief granted under this section must be established by a preponderance of evidence.

(3) If an Indian child is involved, the guardianship must be in compliance with the Indian Child Welfare Act. The facts supporting any finding made to establish a guardianship for an Indian child, including the finding that continued custody by the parents or Indian custodian would result in serious emotional or physical harm to the Indian child, must be established by clear and convincing evidence.

(4) In a proceeding under this section, the court may receive testimony and reports as provided in ORS 419B.325.

(5) If the court has approved a plan of guardianship under ORS 419B.476, the court may grant the motion for guardianship if the court determines, after a hearing, that:

(a) The ward cannot safely return to a parent within a reasonable time;

(b) Adoption is not an appropriate plan for the ward;

(c) The proposed guardian is suitable to meet the needs of the ward and is willing to accept the duties and authority of a guardian; and

(d) Guardianship is in the ward's best interests. In determining whether guardianship is in the ward's best interests, the court shall consider the ward's wishes.

(6) Unless vacated pursuant to ORS 419B.368, a guardianship established under this section continues as long as the ward is subject to the court's jurisdiction as provided in ORS 419B.328. [2003 c.229 §2; 2007 c.333 §2]

419B.367 Letters of guardianship; reports by guardian; review of reports; legal status and liability of guardian. (1) Upon granting a motion for guardianship under ORS 419B.366 or upon granting a petition for guardianship under ORS 419B.365, the court shall issue letters of guardianship to the guardian. As provided in ORS 419A.255, a guardian may disclose letters of guardianship when necessary to fulfill the duties of a guardian. Letters of guardianship must be in substantially the following form:

State of Oregon,)
) LETTERS OF
County of _____) GUARDIANSHIP

BY THESE LETTERS OF GUARDIANSHIP be informed:

That on _____ (month) _____ (day), 2_____, the _____ Court, _____ County, State of Oregon, appointed _____ (name of guardian) guardian for _____ (name of ward) and that the named guardian has qualified and has the authority and duties of guardian for the named ward including legal custody of the ward, except as provided below.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed the seal of the court at my office on _____ (month) _____ (day), 2_____.

(Seal)
_____, Clerk of the Court
By _____, Deputy

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(2) In the order appointing the guardian, the court shall require the guardian to file with the court a verified written report within 30 days after each anniversary of appointment and may:

(a) Specify the frequency and nature of visitation or contact between relatives, including siblings, and the ward, if the court determines that visitation or contact is in the ward's best interests;

(b) Enter an order for child support pursuant to ORS 419B.400 that complies with ORS 25.275; and

(c) Make any other order to provide for the ward's continuing safety and well-being.

(3)(a) Upon timely receipt of a report under subsection (2) of this section, the court shall review the report and cause the report to become part of the juvenile court file and may:

(A) Direct the local citizen review board to conduct a review;

(B) Subject to the availability of funds, appoint a court visitor and require the visitor to file a report with the court; or

(C) Conduct a court review.

(b) If the court does not receive a report under subsection (2) of this section in a timely manner, the court shall:

(A) Direct the local citizen review board to conduct a review;

(B) Subject to the availability of funds, appoint a court visitor and require the visitor to file a report with the court; or

(C) Conduct a court review.

(4) Except as otherwise limited by the court, a person appointed guardian has legal custody of the ward and the duties and authority of legal custodian and guardian under ORS 419B.373 and 419B.376. A guardian is not liable to third persons for acts of the ward solely by reason of being appointed guardian. [2003 c.229 §3; 2005 c.84 §1; 2007 c.333 §3]

419B.368 Review, modification or vacation of guardianship order. (1) The court, on its own motion or upon the motion of a party and after such hearing as the court may direct, may review, modify or vacate a guardianship order.

(2) The court may modify a guardianship order if the court determines to do so would be in the ward's best interests.

(3) The court may vacate a guardianship order, return the ward to the custody of a parent and make any other order the court is authorized to make under this chapter if the court determines that:

(a) It is in the ward's best interests to vacate the guardianship;

(b) The conditions and circumstances giving rise to the establishment of the guardianship have been ameliorated; and

(c) The parent is presently able and willing to adequately care for the ward.

(4) The court may vacate a guardianship order after determining that the guardian is no longer willing or able to fulfill the duties of a guardian. Upon vacating a guardianship order under this subsection, the court shall conduct a hearing:

(a) Within 14 days, make written findings required in ORS 419B.185 (1)(a), (d) and (e)

and make any order directing disposition of the ward that the court is authorized to make under this chapter; and

(b) Pursuant to ORS 419B.476 within 90 days.

(5) In determining whether it is in the ward's best interests to modify or vacate a guardianship, the court shall consider, but is not limited to considering:

(a) The ward's emotional and developmental needs;

(b) The ward's need to maintain existing attachments and relationships and to form attachments and relationships, including those with the birth family;

(c) The ward's health and safety; and

(d) The ward's wishes.

(6) In addition to service required under ORS 419B.851, a party filing a motion to vacate a guardianship shall serve the motion upon the Department of Human Services.

(7) Notwithstanding subsection (1) of this section, a parent may not move the court to vacate a guardianship once a guardianship is granted under ORS 419B.365. [2003 c.229 §4; 2007 c.333 §4; 2007 c.806 §7]

419B.369 Guardianship study; rules. (1) When a ward is in the legal custody of the Department of Human Services, the department shall conduct a guardianship study of the proposed guardian's home and provide a report to the court regarding the suitability of the proposed guardian and whether guardianship is in the ward's best interests. The department shall adopt rules necessary to carry out the duties imposed by this subsection.

(2) When a ward is not in the legal custody of the department, the court may order the proposed guardian to obtain, at the proposed guardian's expense, a guardianship study of the proposed guardian's home and provide a report to the court regarding the suitability of the proposed guardian and whether guardianship is in the ward's best interests. [2003 c.229 §5; 2007 c.333 §5]

(Legal Custodian of Child)

419B.370 Guardianship as incident of custody. (1) When the court grants legal custody to the Department of Human Services, it may also grant guardianship of the ward to the department, to remain in effect solely while the ward remains in the legal custody of the department.

(2) When the court grants legal custody to a private institution or agency or to a suitable person or entity, the court may grant guardianship of the ward to the private institution or agency to which the ward is committed or to the suitable person or entity if it appears necessary to do so in the interests of the ward.

(3) Unless guardianship is granted as provided in subsection (1) or (2) of this section, the court as an incident of its wardship has the duties and authority of the guardian as provided in ORS 419B.376 and 419B.379. [1993 c.33 §114; 1993 c.367 §3; 2003 c.229 §10; 2003 c.396 §64]

419B.373 Duties and authority of legal custodian. A person, agency or institution having legal custody of a ward has the following duties and authority:

(1) To have physical custody and control of the ward.

(2) To supply the ward with food, clothing, shelter and incidental necessaries.

(3) To provide the ward with care, education and discipline.

(4) To authorize ordinary medical, dental, psychiatric, psychological, hygienic or other remedial care and treatment for the ward, and, in an emergency where the ward's safety appears urgently to require it, to authorize surgery or other extraordinary care.

(5) To make such reports and to supply such information to the court as the court may from time to time require.

(6) To apply for any Social Security benefits or public assistance to which the ward is otherwise entitled and to use the benefits or assistance to pay for the care of the ward. [1993 c.33 §115; 1993 c.367 §1; 2003 c.396 §65]

(Guardian)

419B.376 Duties and authority of guardian. A person, agency or institution having guardianship of a ward by reason of appointment by the court has the duties and authority of a guardian of the ward, including but not limited to the following:

(1) To authorize surgery for the ward, but this authority does not prevent the person having legal custody of the ward from acting under ORS 419B.373 (4).

(2) To authorize the ward to enlist in the Armed Forces of the United States.

(3) To consent to the ward's marriage.

(4) When the ward has been committed under ORS 419B.527, to consent to the adoption of the ward.

(5) To make other decisions concerning the ward of substantial legal significance.

(6) To make such reports and to supply such information to the court as the court may from time to time require. [1993 c.33 §116; 2003 c.396 §66]

419B.379 Guardian is not conservator. A person appointed guardian of the ward by the court is guardian only and not a conser-

vator of the estate of the ward, unless that person is appointed conservator of the ward's estate in a protective proceeding as provided in ORS chapter 125. [1993 c.33 §117; 1995 c.664 §94; 2003 c.396 §67]

(Authority Over Parents)

419B.385 Parent or guardian as party. A parent or legal guardian of a ward, if such parent or guardian was served with summons under ORS 419B.812 to 419B.839 prior to the adjudication, is subject to the jurisdiction of the court for purposes of this section. The court may order the parent or guardian to assist the court in any reasonable manner in providing appropriate education or counseling for the ward. [1993 c.33 §118; 2001 c.622 §49; 2003 c.396 §68]

419B.387 Parent participation in treatment or training. If the court finds in an evidentiary hearing that treatment or training is needed by a parent to correct the circumstances that resulted in wardship or to prepare the parent to resume the care of the ward, the court may order the parent to participate in the treatment or training if the participation is in the ward's best interests. [1993 c.546 §55 (enacted in lieu of 1993 c.33 §§119 and 120); 2003 c.396 §69]

419B.389 Inability of parent to comply with order of court. A parent who believes or claims that financial, health or other problems will prevent or delay the parent's compliance with an order of the court must inform the court of the relevant circumstances as soon as reasonably possible and, if appropriate, seek relief from the order under ORS 419B.923. [2001 c.360 §3; 2003 c.315 §1]

(Paternity)

419B.395 Judgment of paternity or nonpaternity. (1) If in any proceeding under ORS 419B.100 or 419B.500 the juvenile court determines that the child or ward has no legal father or that paternity is disputed as allowed in ORS 109.070, the court may enter a judgment of paternity or a judgment of nonpaternity in compliance with the provisions of ORS 109.070, 109.124 to 109.230, 109.250 to 109.262 and 109.326.

(2) Before entering a judgment under subsection (1) of this section, the court must find that adequate notice and an opportunity to be heard was provided to:

(a) The parties to the proceeding;

(b) The man alleged or claiming to be the child or ward's father; and

(c) The Administrator of the Division of Child Support of the Department of Justice or the branch office providing support services to the county in which the court is located.

(3) When appropriate, the court shall inform a man before the court claiming to be the father of a child or ward that paternity establishment services may be available through the administrator if the child or ward:

(a) Is a child born out of wedlock;

(b) Has not been placed for adoption; and

(c) Has no legal father.

(4) As used in this section:

(a) "Administrator" has the meaning given that term in ORS 25.010.

(b) "Child born out of wedlock" has the meaning given that term in ORS 109.124.

(c) "Legal father" has the meaning given that term in ORS 419A.004 (16). [2005 c.160 §8]

(Support)

419B.400 Authority to order support; collection. (1) The court may, after a hearing on the matter, require the parents or other person legally obligated to support a child alleged to be within the jurisdiction of the court under ORS 419B.100 or a ward to pay toward the child or ward's support such amounts at such intervals as the court may direct, even though the child or ward is over 18 years of age as long as the child or ward is a child attending school, as defined in ORS 107.108.

(2) At least 21 days before the hearing, the court shall notify the Administrator of the Division of Child Support of the Department of Justice, or the branch office providing support services to the county where the hearing will be held, of the hearing. Before the hearing the administrator shall inform the court, to the extent known:

(a) Whether there is pending in this state or any other jurisdiction any type of support proceeding involving the child or ward, including a proceeding brought under ORS 25.287, 107.085, 107.135, 107.431, 108.110, 109.100, 109.103, 109.165, 125.025, 416.400 to 416.465 or 419C.590 or ORS chapter 110; and

(b) Whether there exists in this state or any other jurisdiction a support order, as defined in ORS 110.303, involving the child or ward.

(3) The Judicial Department and the Department of Justice may enter into an agreement regarding how the courts give the notice required under subsection (2) of this section to the Department of Justice and how the Department of Justice gives the information described in subsection (2)(a) and (b) to the courts.

(4) The court, in determining the amount to be paid, shall use the scale and formula provided for in ORS 25.275 and 25.280. Un-

less otherwise ordered, the amounts so required to be paid shall be paid to the Department of Justice or the county clerk, whichever is appropriate, for transmission to the person, institution or agency having legal custody of the child or ward. [1993 c.33 §121; 1997 c.704 §§46,60; 2003 c.116 §16; 2003 c.396 §70a]

419B.402 Support order is judgment. Any order for support entered pursuant to ORS 419B.400 shall be entered as a judgment and the court does not have the power to set aside, alter or modify the judgment, or any portion thereof, which provides for any payment of money, either for minor children or the support of a party, which has accrued prior to the filing of a motion to set aside, alter or modify the judgment. [1993 c.33 §122; 2003 c.576 §252]

419B.404 Support for child or ward in state financed or supported institution. Any order for support entered pursuant to ORS 419B.400 for a child or ward in the care and custody of the Department of Human Services may be made contingent upon the child or ward residing in a state financed or supported residence, shelter or other facility or institution. A certificate signed by the Director of Human Services, the Administrator of the Division of Child Support or the administrator's authorized representative shall be sufficient to establish such periods of residence and to satisfy the order for periods of nonresidence. [1993 c.33 §123; 2003 c.396 §71]

419B.406 Assignment of support order to state. When a child or ward is in the legal custody of the Department of Human Services and the child or ward is the beneficiary of an order of support in a judgment of dissolution or other order and the department is required to provide financial assistance for the care and support of the child or ward, the state is assignee of and subrogated to the child or ward's proportionate share of the support obligation including sums that have accrued whether or not the support order or judgment provides for separate monthly amounts for the support of each of two or more children or wards or a single monthly gross payment for the benefit of two or more children or wards, up to the amount of assistance provided by the department. The assignment shall be as provided in ORS 412.024. [1993 c.33 §124; 1999 c.80 §76; 2003 c.73 §67; 2003 c.396 §72; 2003 c.572 §18; 2003 c.576 §448]

419B.408 Enforcement of support order. (1) An order of support entered pursuant to ORS 419B.400 may be enforced by execution or in the manner provided by law for the enforcement of a judgment granting an equitable remedy or by an order to withhold pursuant to ORS 25.372 to 25.427.

(2) No property of the child or ward's parents, or either of them, or other person legally obligated to support the child or ward is exempt from levy and sale or other process to enforce collection of the amounts ordered by the court to be paid toward the support of the child or ward. [1993 c.33 §125; 1993 c.798 §31; 2003 c.396 §73]

419B.420 [1993 c.33 §126; repealed by 2001 c.622 §57]

419B.423 [1993 c.33 §127; 1993 c.546 §125; repealed by 2001 c.622 §57]

419B.426 [1993 c.33 §128; repealed by 2001 c.622 §57]

(Reports by Guardians and Custodians)

419B.440 Circumstances requiring reports. Any public or private agency having guardianship or legal custody of a child or ward pursuant to court order shall file reports on the child or ward with the juvenile court that entered the original order concerning the child or ward or, when no such order exists, with the juvenile court of the county of the child or ward's residence in the following circumstances:

(1) When the child or ward has been placed with the agency as a result of a court order and prior to, or as soon as practicable after the agency places the child or ward in any placement including, but not limited to, the child or ward's home, shelter care, substitute care or a child care center, unless the court has previously received a report or treatment plan indicating the actual physical placement of the child or ward.

(2)(a) When the child or ward has been placed with the agency as the result of a court order and remains under agency care for six consecutive months from date of initial placement;

(b) When the child or ward has been surrendered for adoption or the parents' rights have been terminated and the agency has not physically placed the child or ward for adoption or initiated adoption proceedings within six months of receiving the child or ward; and

(c) When the ward is in the legal custody of the Department of Human Services as provided in ORS 419B.337, but the ward has been placed for a period of six consecutive months in the physical custody of a parent or a person who was appointed the ward's legal guardian prior to placement of the ward in the legal custody of the department. [1993 c.33 §129; 2003 c.396 §74; 2007 c.610 §1]

419B.443 Time and content of reports. (1) An agency described in ORS 419B.440 shall file the reports required by ORS 419B.440 (2) at the end of the initial six-month period and no less frequently than each six months thereafter. The agency shall file reports more frequently if the court so

orders. The reports shall include, but not be limited to:

(a) A description of the problems or offenses that necessitated the placement of the child or ward with the agency;

(b) A description of the type and an analysis of the effectiveness of the care, treatment and supervision that the agency has provided for the child or ward;

(c) A list of all placements made since the child or ward has been in the guardianship or legal custody of an agency and the length of time the child or ward has spent in each placement;

(d) For a child or ward in substitute care, a list of all schools the child or ward has attended since the child or ward has been in the guardianship or legal custody of the agency, the length of time the child or ward has spent in each school and, for a child or ward 14 years of age or older, the number of high school credits the child or ward has earned;

(e) A list of dates of face-to-face contacts the assigned case worker has had with the child or ward since the child or ward has been in the guardianship or legal custody of the agency and, for a child or ward in substitute care, the place of each contact;

(f) For a child or ward in substitute care, a list of the visits the child or ward has had with the child's or ward's parents or siblings since the child or ward has been in the guardianship or legal custody of the agency and the place and date of each visit;

(g) A description of agency efforts to return the child or ward to the parental home or find permanent placement for the child or ward, including, when applicable, efforts to assist the parents in remedying factors which contributed to the removal of the child or ward from the home;

(h) A proposed treatment plan or proposed continuation or modification of an existing treatment plan, including a proposed visitation plan or proposed continuation or modification of an existing visitation plan and a description of efforts expected of the child or ward and the parents to remedy factors that have prevented the child or ward from safely returning home within a reasonable time;

(i) If continued substitute care is recommended, a proposed timetable for the child's or ward's return home or other permanent placement or a justification of why extended substitute care is necessary; and

(j) If the child or ward has been placed in foster care outside the state, whether the child or ward has been visited not less frequently than every six months by a state or private agency.

(2) In addition to the information required in a report made under subsection (1) of this section, for a ward who is in the legal custody of the Department of Human Services pursuant to ORS 419B.337 but who will be or recently has been placed in the physical custody of a parent or a person who was appointed the ward's legal guardian prior to placement of the ward in the legal custody of the department, a report required under ORS 419B.440 (1) shall include:

(a) A recommended timetable for dismissal of the department's legal custody of the ward and termination of the wardship; and

(b) A description of the services that the department will provide to the ward and the ward's physical custodian to eliminate the need for the department to continue legal custody.

(3) In addition to the information required in a report made under subsection (1) of this section, if the report is made by the department under ORS 419B.440 (2)(c), the report shall include:

(a) A recommended timetable for dismissal of the department's legal custody of the ward and termination of the wardship; and

(b) A description of the services that the department has provided to the ward and the ward's physical custodian to eliminate the need for the department to continue legal custody.

(4) Notwithstanding the requirements of subsection (1) of this section, reports need not contain information contained in prior reports. [1993 c.33 §130; 2001 c.686 §22; 2003 c.396 §75; 2007 c.610 §2; 2007 c.611 §6; 2007 c.806 §8]

419B.446 Filing report. (1) Notwithstanding the requirements under ORS 419B.440 that reports be filed with the court, any report after the initial report that is required by ORS 419B.443 on a child or ward whose case is being regularly reviewed by a local citizen review board shall be filed with that local citizen review board rather than the court.

(2) Notwithstanding subsection (1) of this section, all reports made under ORS 419B.440 (2)(c) on wards in the legal custody of the Department of Human Services shall be filed with the court. [1993 c.33 §131; 2003 c.396 §76; 2007 c.610 §3]

419B.449 Review hearing by court; findings. (1) Upon receiving any report required by ORS 419B.440, the court may hold a hearing to review the child or ward's condition and circumstances and to determine if

the court should continue jurisdiction and wardship or order modifications in the care, placement and supervision of the child or ward. The court shall hold a hearing:

(a) In all cases under ORS 419B.440 (2)(b) when the parents' rights have been terminated;

(b) If requested by the child or ward, the attorney for the child or ward, if any, the parents or the public or private agency having guardianship or legal custody of the child or ward within 30 days of receipt of the notice provided in ORS 419B.452;

(c) Not later than six months after receipt of a report made under ORS 419B.440 (1) on a ward who is in the legal custody of the Department of Human Services pursuant to ORS 419B.337 but who is placed in the physical custody of a parent or a person who was appointed the ward's legal guardian prior to placement of the ward in the legal custody of the department; or

(d) Within 30 days after receipt of a report made under ORS 419B.440 (2)(c).

(2) The court shall conduct a hearing provided in subsection (1) of this section in the manner provided in ORS 419B.310, except that the court may receive testimony and reports as provided in ORS 419B.325. At the conclusion of the hearing, the court shall enter findings of fact.

(3) If the child or ward is in substitute care and the decision of the court is to continue the child or ward in substitute care, the findings of the court shall specifically state:

(a)(A) Why continued care is necessary as opposed to returning the child or ward home or taking prompt action to secure another permanent placement; and

(B) The expected timetable for return or other permanent placement.

(b) Whether the agency having guardianship or legal custody of the child or ward has made diligent efforts to place the child or ward pursuant to ORS 419B.192.

(c) The number of placements made, schools attended, face-to-face contacts with the assigned case worker and visits had with parents or siblings since the child or ward has been in the guardianship or legal custody of the agency and whether the frequency of each of these is in the best interests of the child or ward.

(d) For a child or ward 14 years of age or older, whether the child or ward is progressing adequately toward graduation from high school and, if not, the efforts that have been made by the agency having custody or guardianship to assist the child or ward to graduate.

(4) If the ward is in the legal custody of the department but has been placed in the physical custody of the parent or a person who was appointed the ward's legal guardian prior to placement of the ward in the legal custody of the department, and the decision is to continue the ward in the legal custody of the department and the physical custody of the parent or guardian, the findings of the court shall specifically state:

(a) Why it is necessary and in the best interests of the ward to continue the ward in the legal custody of the department; and

(b) The expected timetable for dismissal of the department's legal custody of the ward and termination of the wardship.

(5) In making the findings under subsection (2) of this section, the court shall consider the efforts made to develop the concurrent case plan, including, but not limited to, identification of appropriate permanent placement options for the child or ward both inside and outside this state and, if adoption is the concurrent case plan, identification and selection of a suitable adoptive placement for the child or ward.

(6) In addition to findings of fact required by subsection (2) of this section, the court may order the Department of Human Services to consider additional information in developing the case plan or concurrent case plan.

(7) Any final decision of the court made pursuant to the hearing provided in subsection (1) of this section is appealable under ORS 419A.200. [1993 c.33 §132; 1999 c.568 §1; 2001 c.480 §8; 2001 c.910 §4; 2003 c.396 §77; 2007 c.610 §4; 2007 c.611 §7; 2007 c.806 §9]

419B.452 Distribution of report by court. Except when a child or ward has been surrendered for adoption or the parents' rights have been terminated, the court shall send a copy of the report required by ORS 419B.440 to the parents and shall notify the parents either that a hearing will be held or that the parents may request a hearing at which time they may ask for modifications in the care, treatment and supervision of the child or ward. If the court finds that informing the parents of the identity and location of the foster parents of the child or ward is not in the best interest of the child or ward, the court may order such information deleted from the report before sending the report to the parents. If an Indian child is involved, the court shall send a copy of the report to the Indian child's tribe as required by the notice requirements of the Indian Child Welfare Act. [1993 c.33 §133; 1993 c.546 §126; 2003 c.396 §78]

(Child Surrendered for Adoption)

419B.460 Agency's responsibility. Where a child has been surrendered for adoption and the agency has not physically placed the child for adoption or initiated adoption proceedings within six months of receiving the child, the agency shall file a petition alleging that the child comes within the jurisdiction of the court. [1993 c.33 §134]

(Permanency Hearing)

419B.470 Permanency hearing; schedule. (1) The court shall conduct a permanency hearing within 30 days after a judicial finding is made under ORS 419B.340 (5) if, based upon that judicial finding, the Department of Human Services determines that it will not make reasonable efforts to reunify the family.

(2) In all other cases when a child or ward is in substitute care, the court shall conduct a permanency hearing no later than 12 months after the ward was found within the jurisdiction of the court under ORS 419B.100 or 14 months after the child or ward was placed in substitute care, whichever is the earlier.

(3) If a ward is removed from court sanctioned permanent foster care, the department shall request and the court shall conduct a permanency hearing within three months after the date of the change in placement.

(4) If a ward has been surrendered for adoption or the parents' rights have been terminated and the department has not physically placed the ward for adoption or initiated adoption proceedings within six months after the surrender or entry of an order terminating parental rights, the court shall conduct a permanency hearing within 30 days after receipt of the report required by ORS 419B.440 (2)(b).

(5) Unless good cause otherwise is shown, the court shall also conduct a permanency hearing at any time upon the request of the department, an agency directly responsible for care or placement of the child or ward, parents whose parental rights have not been terminated, an attorney for the child or ward, a court appointed special advocate, a citizen review board, a tribal court or upon its own motion. The court shall schedule the hearing as soon as possible after receiving a request.

(6) After the initial permanency hearing conducted under subsection (1) or (2) of this section or any permanency hearing conducted under subsections (3) to (5) of this section, the court shall conduct subsequent permanency hearings not less frequently than once every 12 months for as long as the child or ward remains in substitute care.

(7) After the permanency hearing conducted under subsection (4) of this section, the court shall conduct subsequent permanency hearings at least every six months for as long as the ward is not physically placed for adoption or adoption proceedings have not been initiated.

(8) If a child returns to substitute care after a court's previously established jurisdiction over the child has been dismissed or terminated, a permanency hearing shall be conducted no later than 12 months after the child is found within the jurisdiction of the court on a newly filed petition or 14 months after the child's most recent placement in substitute care, whichever is the earlier. [1993 c.33 §135; 1993 c.546 §127; 1999 c.859 §14; 2001 c.686 §7; 2003 c.396 §79; 2007 c.806 §10]

419B.473 Notice; appearance. (1) The court may order that the child or ward or any other person be present during the hearing.

(2) The court shall notify the parties listed in ORS 419B.470 and any other interested parties of the hearing. The notice shall state the time and place of the hearing. Upon request of the court, the Department of Human Services or other legal custodian of the child or ward shall provide the court with information concerning the whereabouts and identity of such parties. [1993 c.33 §136; 2003 c.396 §80]

419B.476 Conduct of hearing; court determinations; orders. (1) A permanency hearing shall be conducted in the manner provided in ORS 418.312, 419B.310, 419B.812 to 419B.839 and 419B.908, except that the court may receive testimony and reports as provided in ORS 419B.325.

(2) At a permanency hearing the court shall:

(a) If the case plan at the time of the hearing is to reunify the family, determine whether the Department of Human Services has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to make it possible for the ward to safely return home and whether the parent has made sufficient progress to make it possible for the ward to safely return home. In making its determination, the court shall consider the ward's health and safety the paramount concerns.

(b) If the case plan at the time of the hearing is something other than to reunify the family, determine whether the department has made reasonable efforts to place the ward in a timely manner in accordance with the plan, including, if appropriate, reasonable efforts to place the ward through an

interstate placement, and to complete the steps necessary to finalize the permanent placement.

(c) If the case plan at the time of the hearing is something other than to reunify the family, determine whether the department has considered permanent placement options for the ward, including, if appropriate, whether the department has considered both permanent in-state placement options and permanent interstate placement options for the ward.

(d) Make the findings of fact under ORS 419B.449 (2).

(3)(a) In the circumstances described in paragraph (b) of this subsection, in addition to making the determination required by subsection (2)(a) or (b) of this section, at a permanency hearing the court shall review the comprehensive plan for the ward's transition to independent living and determine and make findings as to:

(A) Whether the plan is adequate to ensure the ward's successful transition to independent living;

(B) Whether the department has offered appropriate services pursuant to the plan; and

(C) Whether the department has involved the ward in the development of the plan.

(b) The requirements of paragraph (a) of this subsection apply when:

(A) The ward is 16 years of age or older; or

(B) The ward is 14 years of age or older and there is a comprehensive plan for the ward's transition to independent living.

(4) At a permanency hearing the court may:

(a) If the case plan changed during the period since the last review by a local citizen review board or court hearing and a plan to reunify the family was in effect for any part of that period, determine whether the department has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to make it possible for the ward to safely return home. In making its determination, the court shall consider the ward's health and safety the paramount concerns;

(b) If the case plan changed during the period since the last review by a local citizen review board or court hearing and a plan other than to reunify the family was in effect for any part of that period, determine whether the department has made reasonable efforts to place the ward in a timely manner in accordance with the plan, including, if appropriate, placement of the ward through an interstate placement, and to complete the steps necessary to finalize the permanent placement;

(c) If the court determines that further efforts will make it possible for the ward to safely return home within a reasonable time, order that the parents participate in specific services for a specific period of time and make specific progress within that period of time;

(d) Determine the adequacy and compliance with the case plan and the case progress report;

(e) Review the efforts made by the department to develop the concurrent permanent plan, including but not limited to identification of appropriate permanent in-state placement options and appropriate permanent interstate placement options and, if adoption is the concurrent case plan, identification and selection of a suitable adoptive placement for the ward;

(f) Order the department to develop or expand the case plan or concurrent permanent plan and provide a case progress report to the court and other parties within 10 days after the permanency hearing;

(g) Order the department or agency to modify the care, placement and supervision of the ward;

(h) Order the local citizen review board to review the status of the ward prior to the next court hearing; or

(i) Set another court hearing at a later date.

(5) The court shall enter an order within 20 days after the permanency hearing. In addition to any determinations or orders the court may make under subsection (4) of this section, the order shall include:

(a) The court's determination required under subsections (2) and (3) of this section, including a brief description of the efforts the department has made with regard to the case plan in effect at the time of the permanency hearing;

(b) The court's determination of the permanency plan for the ward that includes whether and, if applicable, when:

(A) The ward will be returned to the parent;

(B) The ward will be placed for adoption, and a petition for termination of parental rights will be filed;

(C) The ward will be referred for establishment of legal guardianship; or

(D) The ward will be placed in another planned permanent living arrangement;

(c) If the court determines that the permanency plan for the ward should be to return home because further efforts will

make it possible for the ward to safely return home within a reasonable time, the court's determination of the services in which the parents are required to participate, the progress the parents are required to make and the period of time within which the specified progress must be made;

(d) If the court determines that the permanency plan for the ward should be adoption, the court's determination of whether one of the circumstances in ORS 419B.498 (2) is applicable;

(e) If the court determines that the permanency plan for the ward should be establishment of a legal guardianship or placement with a fit and willing relative, the court's determination of why neither placement with parents nor adoption is appropriate;

(f) If the court determines that the permanency plan for the ward should be a planned permanent living arrangement, the court's determination of a compelling reason, that must be documented by the department, why it would not be in the best interests of the ward to be returned home, placed for adoption, placed with a legal guardian or placed with a fit and willing relative;

(g) If the current placement is not expected to be permanent, the court's projected timetable for return home or for placement in another planned permanent living arrangement. If the timetable set forth by the court is not met, the department shall promptly notify the court and parties;

(h) If an Indian child is involved, the tribal affiliation of the ward; and

(i) If the ward has been placed in an interstate placement, the court's determination of whether the interstate placement continues to be appropriate and in the best interests of the ward.

(6) If an Indian child is involved, the court shall follow the placement preference established by the Indian Child Welfare Act.

(7) Any final decision of the court made pursuant to the permanency hearing is appealable under ORS 419A.200. On appeal of a final decision of the court under this subsection, the court's finding, if any, under ORS 419B.340 (5) that the department is not required to make reasonable efforts to make it possible for the ward to safely return home is an interlocutory order to which a party may assign error. [1993 c.33 §137; 1993 c.546 §128; 1999 c.568 §2; 1999 c.859 §15; 2001 c.480 §9; 2001 c.622 §50; 2001 c.686 §16; 2001 c.910 §5; 2003 c.396 §81; 2003 c.544 §1a; 2007 c.611 §8; 2007 c.806 §11]

(Termination of Parental Rights)

419B.498 Termination of parental rights; petition by Department of Human Services; when required. (1) Except as provided in subsection (2) of this section, the Department of Human Services shall simultaneously file a petition to terminate the parental rights of a child or ward's parents and identify, recruit, process and approve a qualified family for adoption if the child or ward is in the custody of the department and:

(a) The child or ward has been in substitute care under the responsibility of the department for 15 months of the most recent 22 months;

(b) A parent has been convicted of murder of another child of the parent, voluntary manslaughter of another child of the parent, aiding, abetting, attempting, conspiring or soliciting to commit murder or voluntary manslaughter of the child or ward or of another child of the parent or felony assault that has resulted in serious physical injury to the child or ward or to another child of the parent; or

(c) A court of competent jurisdiction has determined that the child or ward is an abandoned child.

(2) The department shall file a petition to terminate the parental rights of a parent in the circumstances described in subsection (1) of this section unless:

(a) The child or ward is being cared for by a relative and that placement is intended to be permanent;

(b) There is a compelling reason, which is documented in the case plan, for determining that filing such a petition would not be in the best interests of the child or ward. Such compelling reasons include, but are not limited to:

(A) The parent is successfully participating in services that will make it possible for the child or ward to safely return home within a reasonable time as provided in ORS 419B.476 (5)(c);

(B) Another permanent plan is better suited to meet the health and safety needs of the child or ward, including the need to preserve the child's or ward's sibling attachments and relationships; or

(C) The court or local citizen review board in a prior hearing or review determined that while the case plan was to reunify the family the department did not make reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to make it possible for the child or ward to safely return home; or

(c) The department has not provided to the family of the child or ward, consistent

with the time period in the case plan, such services as the department deems necessary for the child or ward to safely return home, if reasonable efforts to make it possible for the child or ward to safely return home are required to be made with respect to the child or ward.

(3) No petition to terminate the parental rights of a child or ward's parents pursuant to subsection (1) of this section or pursuant to ORS 419B.500, 419B.502, 419B.504, 419B.506 or 419B.508 may be filed until the court has determined that the permanency plan for the child or ward should be adoption after a permanency hearing pursuant to ORS 419B.476. [1999 c.859 §21; 2001 c.686 §17; 2003 c.396 §82; 2003 c.544 §2; 2007 c.234 §1; 2007 c.806 §12]

419B.500 Termination of parental rights generally. The parental rights of the parents of a ward may be terminated as provided in this section and ORS 419B.502 to 419B.524, only upon a petition filed by the state or the ward for the purpose of freeing the ward for adoption if the court finds it is in the best interest of the ward. If an Indian child is involved, the termination of parental rights must be in compliance with the Indian Child Welfare Act. The rights of one parent may be terminated without affecting the rights of the other parent. [1993 c.33 §138; 1993 c.546 §56; 1997 c.873 §6; 2003 c.396 §83; 2011 c.438 §5]

419B.502 Termination upon finding of extreme conduct. The rights of the parent or parents may be terminated as provided in ORS 419B.500 if the court finds that the parent or parents are unfit by reason of a single or recurrent incident of extreme conduct toward any child. In such case, no efforts need to be made by available social agencies to help the parent adjust the conduct in order to make it possible for the child or ward to safely return home within a reasonable amount of time. In determining extreme conduct, the court shall consider the following:

(1) Rape, sodomy or sex abuse of any child by the parent.

(2) Intentional starvation or torture of any child by the parent.

(3) Abuse or neglect by the parent of any child resulting in death or serious physical injury.

(4) Conduct by the parent to aid or abet another person who, by abuse or neglect, caused the death of any child.

(5) Conduct by the parent to attempt, solicit or conspire, as described in ORS 161.405, 161.435 or 161.450 or under comparable laws of any jurisdiction, to cause the death of any child.

(6) Previous involuntary terminations of the parent's rights to another child if the conditions giving rise to the previous action have not been ameliorated.

(7) Conduct by the parent that knowingly exposes any child of the parent to the storage or production of methamphetamines from precursors. In determining whether extreme conduct exists under this subsection, the court shall consider the extent of the child or ward's exposure and the potential harm to the physical health of the child or ward. [1993 c.33 §139; 1995 c.767 §1; 1997 c.873 §5; 1999 c.859 §16; 2001 c.575 §1; 2001 c.686 §23; 2003 c.396 §84]

419B.504 Termination upon finding of unfitness. The rights of the parent or parents may be terminated as provided in ORS 419B.500 if the court finds that the parent or parents are unfit by reason of conduct or condition seriously detrimental to the child or ward and integration of the child or ward into the home of the parent or parents is improbable within a reasonable time due to conduct or conditions not likely to change. In determining such conduct and conditions, the court shall consider but is not limited to the following:

(1) Emotional illness, mental illness or mental retardation of the parent of such nature and duration as to render the parent incapable of providing proper care for the child or ward for extended periods of time.

(2) Conduct toward any child of an abusive, cruel or sexual nature.

(3) Addictive or habitual use of intoxicating liquors or controlled substances to the extent that parental ability has been substantially impaired.

(4) Physical neglect of the child or ward.

(5) Lack of effort of the parent to adjust the circumstances of the parent, conduct, or conditions to make it possible for the child or ward to safely return home within a reasonable time or failure of the parent to effect a lasting adjustment after reasonable efforts by available social agencies for such extended duration of time that it appears reasonable that no lasting adjustment can be effected.

(6) Criminal conduct that impairs the parent's ability to provide adequate care for the child or ward. [1993 c.33 §140; 1997 c.873 §7; 2001 c.686 §24; 2003 c.396 §85; 2007 c.70 §199]

419B.506 Termination upon finding of neglect. The rights of the parent or parents may be terminated as provided in ORS 419B.500 if the court finds that the parent or parents have failed or neglected without reasonable and lawful cause to provide for the basic physical and psychological needs of the child or ward for six months prior to the filing of a petition. In determining such failure or neglect, the court shall disregard any incidental or minimal expressions of concern

or support and shall consider but is not limited to one or more of the following:

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

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

(3) Failure to contact or communicate with the child or ward or with the custodian of the child or ward. In making this determination, the court may disregard incidental visitations, communications or contributions. [1993 c.33 §141; 1997 c.873 §8; 2003 c.396 §86]

419B.508 Termination upon finding of abandonment. The rights of the parent or parents may be terminated as provided in ORS 419B.500 if the court finds that the parent or parents have abandoned the child or ward or the child or ward was left under circumstances such that the identity of the parent or parents of the child or ward was unknown and could not be ascertained, despite diligent searching, and the parent or parents have not come forward to claim the child or ward within three months following the finding of the child or ward. [1993 c.33 §142; 2003 c.396 §87]

419B.510 Termination upon finding child conceived as result of rape. (1) The rights of the parent may be terminated as provided in ORS 419B.500 if the court finds that the child or ward was conceived as the result of an act that led to the parent's conviction for rape under ORS 163.365 or 163.375 or other comparable law of another jurisdiction.

(2) Termination of parental rights under subsection (1) of this section does not relieve the parent of any obligation to pay child support.

(3) Termination of parental rights under subsection (1) of this section is an independent basis for termination of parental rights and the court need not make any of the considerations or findings described in ORS 419B.502, 419B.504, 419B.506 or 419B.508. [2011 c.438 §2]

Note: Section 6, chapter 438, Oregon Laws 2011, provides:

Sec. 6. Section 2 of this 2011 Act [419B.510] and the amendments to ORS 107.105, 107.137 and 419B.500 by sections 3 to 5 of this 2011 Act apply to child custody, parenting time and parental termination proceedings filed on or after the effective date of this 2011 Act [January 1, 2012]. [2011 c.438 §6]

419B.515 [1993 c.33 §143; 1993 c.546 §57; repealed by 2001 c.622 §57]

419B.517 Mediation to be encouraged. The use of mediation shall be encouraged in cases involving:

(1) A parent or guardian in a juvenile dependency proceeding in which the child is taken into protective custody or placed in substitute care; or

(2) The termination of parental rights. [1995 c.767 §4; 2005 c.656 §1]

Note: 419B.517 was added to and made a part of ORS chapter 419B by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

419B.518 Appointment of counsel for parents. (1) If the parents are determined to be financially eligible, and request the assistance of appointed counsel, the court shall appoint an attorney to represent them at state expense. Appointment of counsel under this section is subject to ORS 135.055, 151.216 and 151.219.

(2) The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines adopted under ORS 151.216. [1993 c.33 §144; 2001 c.962 §55; 2005 c.449 §4]

419B.521 Conduct of termination hearing. (1) The court shall hold a hearing on the question of terminating the rights of the parent or parents. The court may not hold the hearing any earlier than 10 days after service or final publication of the summons. The facts on the basis of which the rights of the parents are terminated, unless admitted, must be established by clear and convincing evidence and a stenographic or other report authorized by ORS 8.340 shall be taken of the hearing.

(2) Not earlier than provided in subsection (1) of this section and not later than six months from the date on which summons for the petition to terminate parental rights is served, the court before which the petition is pending shall hold a hearing on the petition except for good cause shown. When determining whether or not to grant a continuance for good cause, the judge shall take into consideration the age of the child or ward and the potential adverse effect delay may have on the child or ward. The court shall make written findings when granting a continuance.

(3) The court, on its own motion or upon the motion of a party, may take testimony from any child appearing as a witness and may exclude the child's parents and other persons if the court finds such action would be likely to be in the best interests of the child. However, the court may not exclude the attorney for each party and any testimony taken under this subsection shall be recorded.

(4) Notwithstanding subsection (1) of this section, if an Indian child is involved, termination of parental rights must be supported by evidence beyond a reasonable doubt, in-

cluding testimony of qualified expert witnesses, that continued custody of the child is likely to result in serious emotional or physical harm to the child. [1993 c.33 §145; 1993 c.546 §58; 1995 c.767 §2; 1997 c.873 §9; 2003 c.396 §88]

419B.524 Effect of termination order. Unless there is an appeal from the order terminating the rights of the parent or parents, the order permanently terminates all rights of the parent or parents whose rights are terminated and the parent or parents have no standing to appear as such in any legal proceeding concerning the ward. [1993 c.33 §146; 2003 c.396 §89]

419B.527 Disposition of ward after termination. (1) After the entry of an order terminating the rights of the parent or parents of the ward, the court may:

(a) Place the ward in the legal custody and guardianship of a public or private institution or agency authorized to consent in loco parentis to the adoption of children. An order pursuant to this paragraph is a "permanent commitment" for the purposes of ORS 109.305, 109.309, 109.312 to 109.330 and 109.350 to 109.390; or

(b) Make any order directing disposition of the ward that it is empowered to make under this chapter.

(2) If the rights of only one parent have been terminated, the authority to consent to the adoption of the ward as provided in subsection (1)(a) of this section is effective only with respect to the parent whose rights have been terminated. [1993 c.33 §147; 2003 c.396 §90]

419B.529 Adoption after permanent commitment or surrender; procedure; certain fees prohibited. (1) Notwithstanding ORS 109.309, a prospective adoptive parent is not required to file a petition for adoption when:

(a) A juvenile court that is a circuit court has entered an order of permanent commitment of a ward to the Department of Human Services under ORS 419B.527 or the parent has signed and the department has accepted a release and surrender to the department and a certificate of irrevocability and waiver as provided in ORS 418.270 regarding a child;

(b) The department has completed a home study as defined in ORS 109.304 that finds the prospective parent is suitable to adopt the child or ward and the department consents to the adoption of the child or ward by the prospective parent;

(c) A home study and a placement report requesting the juvenile court to enter a judgment of adoption have been filed in the juvenile court proceeding; and

(d) At the time the placement report is filed under paragraph (c) of this subsection, the prospective adoptive parent files the adoption report form required under ORS 109.400.

(2) Notwithstanding ORS 21.135, the clerk of the juvenile court may not charge or collect first appearance fees for a proceeding under this section.

(3) After the filing of the home study and the placement report requesting the court to enter a judgment of adoption, the juvenile court that entered the order of permanent commitment may proceed as provided in ORS 109.307 and 109.350 and may enter a judgment of adoption.

(4) Records of adoptions filed and established under this section shall be kept in accordance with, and are subject to, ORS 7.211. [1997 c.873 §24; 1999 c.859 §24; 2003 c.396 §91; 2003 c.576 §449; 2011 c.595 §18]

419B.530 Representation by Attorney General. (1) Whenever a juvenile court has before it an action to terminate parental rights, the juvenile court or the Department of Human Services may request the services of the Attorney General.

(2) Whenever an action to terminate parental rights is before a juvenile court pursuant to ORS 419B.500, 419B.502, 419B.504, 419B.506 and 419B.508, the Attorney General shall have the same authority to assist the court as is granted to the district attorney under ORS 8.685. [1993 c.33 §148]

(Emancipation of Minor)

419B.550 Definitions for ORS 419B.550 to 419B.558. As used in ORS 419B.550 to 419B.558:

(1) "Domicile" of a minor means the legal residence or domicile of the custodial parent or guardian.

(2) "Emancipation" means conferral of certain rights of majority upon a minor, as enumerated in ORS 419B.552.

(3) "Minor" means a person under the age of 18 years.

(4) "Parent" means legal guardian or custodian, natural parent or adoptive parent if the minor has been legally adopted.

(5) Notwithstanding subsection (1) of this section, if a minor is subject to the jurisdiction of the juvenile court pursuant to ORS 419B.100 or 419C.005, the domicile of that minor shall be that of the court which has jurisdiction. [1993 c.546 §133]

419B.552 Application for emancipation judgment; effect of judgment. (1) A juvenile court, upon the written application of a minor who is domiciled within the jurisdiction of such court, is authorized to enter a

judgment of emancipation in the manner provided in ORS 419B.558. A judgment of emancipation shall serve only to:

(a) Recognize the minor as an adult for the purposes of contracting and conveying, establishing a residence, suing and being sued, and recognize the minor as an adult for purposes of the criminal laws of this state.

(b) Terminate as to the parent and child relationship the provisions of ORS 109.010 until the child reaches the age of majority.

(c) Terminate as to the parent and child relationship the provisions of ORS 108.045, 109.100, 419B.373, 419B.400, 419B.402, 419B.404, 419B.406, 419B.408, 419C.550, 419C.590, 419C.592, 419C.595, 419C.597 and 419C.600.

(2) A judgment of emancipation shall not affect any age qualification for purchasing alcoholic liquor, the requirements for obtaining a marriage license, nor the minor's status under ORS 109.510. [1993 c.546 §134; 2003 c.576 §450]

419B.555 Hearing; notice to parent; duty to advise minor of liabilities of emancipated person; filing fee. (1) The juvenile court shall conduct a preliminary hearing on the minor's application for emancipation within 10 days of the date on which it is filed or as soon as possible thereafter. At the time of the preliminary hearing, the court may issue a temporary custody order, stay any pending proceedings or enter any other temporary order appropriate to the circumstances. No action of the court pursuant to this subsection may be extended beyond the date set for a final hearing.

(2) The final hearing shall be held no later than 60 days or as soon as possible after the date on which the application is filed.

(3) Notice to the parent or parents of the applicant shall be made pursuant to ORS 419B.812 to 419B.839.

(4) At the preliminary hearing, the court shall advise the minor of the civil and criminal rights and civil and criminal liabilities of an emancipated minor. This advice shall be recited in the judgment of emancipation.

(5) The hearing mentioned in subsection (2) of this section may be waived by the minor and parent or parents.

(6) The filing fee established under ORS 21.135 shall be charged and collected by the court for each application for emancipation. [1993 c.546 §135; 1997 c.801 §33; 2001 c.622 §51; 2003 c.576 §451; 2003 c.737 §§68,69; 2005 c.702 §§81,82,83; 2011 c.595 §64]

419B.558 Entry of judgment of emancipation. (1) The juvenile court in its discretion may enter a judgment of emancipation where the minor is at least 16 years of age and the court finds that the best interests of the minor will be served by emancipation. In making its determination, the court shall take into consideration the following factors:

(a) Whether the parent of the minor consents to the proposed emancipation;

(b) Whether the minor has been living away from the family home and is substantially able to be self-maintained and self-supported without parental guidance and supervision; and

(c) Whether the minor can demonstrate to the satisfaction of the court that the minor is sufficiently mature and knowledgeable to manage the minor's affairs without parental assistance.

(2) Upon entry of a judgment of emancipation by the court, the applicant shall be given a copy of the judgment. The judgment shall instruct that the applicant obtain an Oregon driver's license or an Oregon identification card through the Department of Transportation and that the Department of Transportation make a notation of the minor's emancipated status on the license or identification card.

(3) An emancipated minor shall be subject to the jurisdiction of the adult courts for all criminal offenses. [1993 c.546 §136; 2003 c.576 §452]

JUVENILE COURT DEPENDENCY PROCEDURE

419B.800 Applicability of ORS 419B.800 to 419B.929. (1) ORS 419B.800 to 419B.929 govern procedure and practice in all juvenile court proceedings under this chapter. The Oregon Rules of Civil Procedure do not apply in these proceedings.

(2) ORS 419B.800 to 419B.929 apply to all proceedings under this chapter pending on or filed on or after January 1, 2002, except when, in the opinion of the court, application in a case pending on January 1, 2002, would not be feasible or would work an injustice.

(3) ORS 419B.800 to 419B.929 do not preclude a court in which they apply from regulating pleading, practice and procedure in any manner not inconsistent with ORS 419B.800 to 419B.929. [2001 c.622 §2]

419B.803 Jurisdiction. (1) A juvenile court having subject matter jurisdiction has jurisdiction over:

(a) A party, who has been served in the matter as provided in ORS 419B.812 to 419B.839 to the extent that prosecution of the action is not inconsistent with the Constitution of this state and the Constitution of the United States;

(b) A child under 12 years of age who is the subject of a petition filed pursuant to ORS 419B.100; and

(c) Any other party specified in ORS 419B.875 (1).

(2) Juvenile court jurisdiction is subject to ORS 109.701 to 109.834. [2001 c.622 §3]

419B.806 Consolidation; when required; procedures. (1) As used in this section, "consolidated" means that actions are heard before one judge of the circuit court to determine issues regarding a child or ward.

(2) In any action filed in the juvenile court in which the legal or physical custody of a child or ward is at issue and there is also a child custody, parenting time, visitation, restraining order, filiation or Family Abuse Prevention Act action involving the child or ward in a domestic relations, filiation or guardianship proceeding, the matters shall be consolidated. Actions must be consolidated under this subsection regardless of whether the actions to be consolidated were filed or initiated before or after the filing of the petition under ORS 419B.100.

(3) Consolidation does not merge the procedural or substantive law of the individual actions. Parties to the individual consolidated actions do not have standing, solely by virtue of the consolidation, in every action subject to the order of consolidation. Parties must comply with provisions for intervention or participation in a particular action under the provisions of law applicable to that action.

(4) Upon entry of an order of consolidation, all pending issues pertaining to the actions subject to the order shall be heard together in juvenile court. The court shall hear the juvenile matters first unless the court finds that it is in the best interest of the child or ward to proceed otherwise.

(5) A judge shall make and modify orders and findings in actions subject to the order of consolidation upon the filing of proper motions and notice as provided by law applicable to the actions. Any findings, orders or modifications must be consistent with the juvenile court orders, and persons who were parties to the juvenile court action may not relitigate issues in consolidated actions.

(6) The judge shall set out separately from orders entered under this chapter or ORS chapter 419C any orders or judgments made in other actions subject to the consolidation order. The trial court administrator shall file the orders and judgments in the appropriate actions subject to the consolidation order. An order or judgment in an individual juvenile court action is final if it finally disposes of the rights and duties of the parties to that action, without reference to whether the order or judgment disposes of the rights and duties of the parties to another action with which the action has been consolidated.

(7)(a) When the actions described in subsection (2) of this section exist in two or more circuit courts, the judges assigned to the actions shall confer to determine the appropriate court in which to consolidate and hear the actions. The judges shall confer not later than 10 judicial days after a court has received notice of the existence of an action in another circuit court.

(b) If the judges agree on the circuit court in which the actions should be consolidated, the judges shall take such action as is necessary to consolidate the actions in the circuit court.

(c) If the judges do not agree on the circuit court in which the actions should be consolidated, the actions must be consolidated in the court in which the juvenile action is filed or, if more than one juvenile action is pending, in the court in which the first juvenile action was filed.

(8) Nothing in this section requires the consolidation of any administrative proceeding under ORS chapter 25 or 416 with a juvenile court or other action. [Formerly 419B.260; 2003 c.396 §92; 2007 c.547 §12]

419B.809 Petition; contents; form; dismissal. (1) Any person may file a petition in the juvenile court alleging that a child named therein is within the jurisdiction of the court under ORS 419B.100.

(2) The petition and all subsequent court documents in the proceeding must be entitled "In the matter of _____, a child." The petition must be in writing, signed by the petitioner or the petitioner's attorney and verified.

(3) When the petition is filed by a peace officer, district attorney, attorney general, juvenile department counselor, employee of the Department of Human Services or employee of the Oregon Youth Authority, the petition may be verified upon the information and belief of the petitioner. In all other cases, the petition must be based on the personal knowledge of the petitioner.

(4) The petition alleging jurisdiction must set forth in ordinary and concise language such of the following facts as are known and indicate any that are not known. The petition shall:

(a) Contain the name, age and residence of the child.

(b) Contain the facts that bring the child within the jurisdiction of the court, including

sufficient information to put the parties on notice of the issues in the proceeding.

(c) Contain the name and residence of the child's parent and, in cases under ORS 419B.100, the names of persons with whom, and the places where, the child has resided for the previous five years.

(d) Indicate whether there is a proceeding involving the custody of the child pending in any court.

(e) Indicate whether a person other than a parent has or claims to have physical custody of the child and, if so, the name and residence of the person having physical custody of the child.

(f) Indicate whether the petitioner has participated in any capacity in any other proceeding concerning the custody of or parenting time or visitation with the child and, if so, the court, case number and date of any child custody determination.

(g) Indicate whether the petitioner knows of any proceeding that could affect the current proceeding and, if so, the court, case number and date of the proceeding.

(5) At any time after a petition is filed, the court may make an order providing for temporary custody of the child.

(6) The court, on motion of an interested party or on its own motion, may at any time direct that the petition be amended. If the amendment results in a substantial departure from the facts originally alleged, the court shall grant such continuance as the interests of justice may require.

(7) Prior to an adjudicatory hearing on the petition, the court may dismiss the petition provided that every party has had an opportunity to investigate and present a case supporting the petition or has waived the opportunity to investigate and the right to present a case. At or after an adjudicatory hearing, the court may dismiss the petition at any other stage of the proceedings.

(8) The petition for jurisdiction must be in substantially the following form.

IN THE CIRCUIT COURT
OF THE STATE OF OREGON
FOR _____ COUNTY

In the Matter of	)
	) No.
	) Petition No.
	)
A Child.	) PETITION

TO THE ABOVE-ENTITLED COURT:

Petitioner, whose name appears below, respectfully represents to the Court as follows:

1. The name, age and residence of the above-named child are as follows: (name); (age); (DOB); (resides at), _____, Oregon. (Alternative: The name and age of the above-named child are as follows: _____. The child's residence is provided in a sealed document because providing that information would jeopardize the health, safety or liberty of the child or of a party to the case. ORS 109.767.)

2. The child is within the jurisdiction of the Court by reason of the following facts:
   A. _____
   B. _____

3. Uniform Child Custody Jurisdiction and Enforcement Act information:
   A. Child(ren)'s present address: _____ (Alternative: The child's present address is provided in a sealed document because providing that information would jeopardize the health, safety or liberty of the child or of a party to the case. ORS 109.767.)
   B. Places the child(ren) has lived during the previous five years:
   _____
   _____
   C. Names and present addresses of persons with whom child(ren) has lived during that period:
   _____
   _____
   D. The petitioner has/has not participated as a party or witness or in any other capacity in any other proceeding concerning the custody of or parenting time or visitation with the child. Court, case number and date of any child custody determination:
   _____
   E. Petitioner knows/does not know of any proceeding that could affect the current proceeding. Court, case number and date of the proceeding:
   _____
   F. Petitioner knows/does not know of any person who has physical custody of the child(ren) or claims rights of legal custody, physical custody, parenting time or visitation with the child(ren). Names and addresses of such persons:
   _____

4. The child resides in _____ County.

5. The name and present address of each parent is as follows:

_____

6. The petition is not filed pursuant to the direction of this Court.

WHEREFORE, petitioner prays this Court to have an investigation made of the circumstances concerning the above-named child and to make such order or orders as are appropriate in the circumstances.

DATED: _____, 2____.

_____
Petitioner

STATE OF OREGON)
) ss.
County of _____)

I, _____, being first duly sworn, on oath or upon affirmation, depose and say that I am the petitioner in the above-entitled proceeding, that I have read the foregoing petition, know the contents thereof, and the same is true as I am informed and believe.

_____
Petitioner

SIGNED AND SWORN to before me on _____, 2____.

_____
SEAL (Alternate Verification)

STATE OF OREGON)
) ss.
County of _____)

I, _____, being first duly sworn, on oath or upon affirmation, depose and say that I am the petitioner in the above-entitled proceeding, that I have read the foregoing petition, know the contents thereof, and the same is true based on my personal knowledge of this matter.

_____
Petitioner

SIGNED AND SWORN to before me on _____, 2____.

_____
SEAL

_____

[2001 c.622 §4]

419B.812 Issuance of summons; time for hearing on petition. (1) As used in this section and ORS 419B.815, 419B.819 and 419B.824, a "true copy" of a summons or petition means an exact and complete copy of the original summons or petition with a certificate upon the copy signed by an attorney of record or a party that indicates that the copy is exact and complete.

(2) A summons under ORS 419B.815 or 419B.819 must be titled "In the matter of _____, a child" and must contain the name of the person to be served and the address at which the summons and petition may be served.

(3) The summons must be issued no later than 30 days after the filing of a petition alleging jurisdiction under ORS 419B.100, a petition to establish a permanent guardianship under ORS 419B.365 or a petition seeking termination of parental rights under ORS 419B.500, 419B.502, 419B.504, 419B.506 or 419B.508.

(4) The petitioner, the petitioner's attorney, the juvenile department, the district attorney, the Attorney General or the Department of Human Services may issue a summons.

(5) The summons must be signed by the:

(a) Petitioner;

(b) Petitioner's attorney;

(c) Juvenile department;

(d) District attorney;

(e) Attorney General; or

(f) Department of Human Services.

(6) The summons must be served with a true copy of the petition.

(7) The summons and petition may be served by any competent person 18 years of age or older who is a resident of the state where service is made or of this state.

(8) The summons and petition may be transmitted by telegraph or facsimile as provided in ORS 419B.848 (3).

(9) The court shall fix the date and time for the hearing on a petition at a reasonable time after service or, if service is by publication, final publication of the summons. The time may not be less than 24 hours after service or, if service is by publication, final publication in a proceeding to establish jurisdiction under ORS 419B.100 and may not be less than 10 days after service or, if service is by publication, final publication in a proceeding to establish permanent guardianship or terminate parental rights. [2001 c.622 §5; 2003 c.205 §1]

419B.815 Summons for proceeding to establish jurisdiction under ORS 419B.100; contents; failure to appear. (1) A court may make an order establishing jurisdiction under ORS 419B.100 only after service of summons and a true copy of the petition as provided in ORS 419B.812, 419B.823, 419B.824, 419B.827, 419B.830, 419B.833 and 419B.839.

(2) A summons under this section must require one of the following:

(a) That the person appear personally before the court at the time and place specified in the summons for a hearing on the allegations of the petition;

(b) That the person appear personally before the court at the time and place specified in the summons to admit or deny the allegations of the petition; or

(c) That the person file a written answer to the petition within 30 days from the date on which the person is served with the summons.

(3) If the court does not direct the type of response to be required by the summons under subsection (2) of this section, the summons shall require the person being summoned to respond in the manner authorized by subsection (2)(c) of this section.

(4) A summons under this section must contain:

(a) A statement that the petition seeks to establish jurisdiction under ORS 419B.100 and that, if the person fails to appear at the time and place specified in the summons or an order under ORS 419B.816 or, if the summons requires the filing of a written answer, fails to file the answer within the time provided, the court may establish jurisdiction without further notice either on the date specified in the summons or order or on a future date, and may take any other action that is authorized by law including, but not limited to, making the child a ward of the court and removing the child from the legal and physical custody of the parent or other person having legal or physical custody of the child.

(b) A notice that the person has the right to be represented by an attorney. The notice must be in substantially the following form:

You have a right to be represented by an attorney. If you wish to be represented by an attorney, please retain one as soon as possible to represent you in this proceeding. If you are the child or the parent or legal guardian of the child and you cannot afford to hire an attorney and you meet the state's financial guidelines, you are entitled to have an attorney appointed for you at state expense. To request appointment of an attorney to represent you at state expense, you must contact the juvenile court immediately. Phone _____ for further information.

(c) A statement that, if the person is represented by an attorney, the person has the responsibility to maintain contact with the person's attorney and to keep the attorney advised of the person's whereabouts.

(d) A statement that, if the person is represented by an attorney, the person must appear personally at any hearing where the person is required to appear, unless the person is the child at issue in the proceeding who must be served with summons in accordance with ORS 419B.839 (1)(f). The statement must explain that to "appear personally" does not include appearance through the person's attorney.

(e) A statement that, if the court has granted the person an exception in advance under ORS 419B.918, the person may appear in any manner permitted by the court under ORS 419B.918.

(f) A statement that no later than 30 days after the petition is filed each party about whom allegations have been made must admit or deny the allegations and that, unless the court specifies otherwise, the admission or denial may be made orally at the hearing or filed with the court in writing.

(g) A statement that if the petition alleges that the child has been physically or sexually abused, the court, at the hearing, may enter an order restraining the alleged perpetrator of the abuse from having contact with the child or attempting to contact the child and requiring the alleged perpetrator to move from the household in which the child resides.

(h) A statement that the parent or other person legally obligated to support the child may be required to pay at some future date for all or a portion of the support of the child, including the cost of out-of-home placement, depending upon the ability of the parent or other person to pay support.

(5) If the summons requires the person to appear before the court to admit or deny the allegations of the petition or requires the person to file a written answer to the petition, the summons must advise the person that, if the person contests the petition, the court:

(a) Will schedule a hearing on the allegations of the petition and order the person to appear personally; and

(b) May schedule other hearings related to the petition and order the person to appear personally.

(6) At a hearing, when the person is required to appear personally, or in the person's written answer to the petition, the person shall inform the court and the petitioner of the person's current residence address, mailing address and telephone number.

(7) If a person fails to appear for any hearing related to the petition, or fails to file a written answer, as directed by summons or court order under this section or ORS 419B.816, the court may establish jurisdiction

without further notice, either on the date specified in the summons or order or on a future date, and may take any other action that is authorized by law including, but not limited to, making the child a ward of the court and removing the child from the legal and physical custody of the parent or other person having legal or physical custody of the child.

(8) If the summons requires the person to appear personally before the court, or if a court orders the person to appear personally at a hearing in the manner provided in ORS 419B.816, the person may not appear through the person's attorney, unless the person is the child at issue in the proceeding who has been served with summons in accordance with ORS 419B.839 (1)(f). [2001 c.622 §6; 2001 c.962 §54; 2003 c.205 §§10,11; 2007 c.497 §3]

419B.816 Notice to person contesting petition to establish jurisdiction. If the person appears in the manner provided in ORS 419B.815 (2)(b) or (c) and the person contests the petition, the court, by written order provided to the person in person or mailed to the person at the address provided by the person, or by oral order made on the record, shall:

(1) Inform the person of the time, place and purpose of the next hearing or hearings related to the petition;

(2) Require the person to appear personally at the next hearing or hearings related to the petition;

(3) Inform the person that, if the person is represented by an attorney, the person's attorney may not attend the hearing in place of the person, unless the person is the child at issue in the proceeding who has been served with summons in accordance with ORS 419B.839 (1)(f);

(4) Inform the person that, if the court has granted the person an exception in advance under ORS 419B.918, the person may appear in any manner permitted by the court under ORS 419B.918; and

(5) Inform the person that, if the person fails to appear as ordered for any hearing related to the petition, the court may establish jurisdiction without further notice, either on the date specified in the summons or order or on a future date, and may take any other action that is authorized by law including, but not limited to, making the child a ward of the court and removing the child from the legal and physical custody of the parent or other person having legal or physical custody of the child. [2003 c.205 §10b; 2007 c.497 §4]

419B.818 Form of summons under ORS 419B.815. The summons for appearance in a proceeding to establish jurisdiction under ORS 419B.100 must be in substantially the following form:

IN THE CIRCUIT COURT
OF THE STATE OF OREGON
FOR _____ COUNTY

In the Matter of	)
	) No.
	) Petition No.
	)
A Child.	) SUMMONS

TO: Name and address

IN THE NAME OF THE STATE OF OREGON:
You are directed:

_____ To appear in person before this Court at _____ (address), Courtroom #_____, _____, Oregon, on: the _____ day of _____, 2____, at ____ o'clock ___.m. for a hearing on the allegations of the petition and at any subsequent court-ordered hearing. You must appear personally in the courtroom on the date and at the time listed above. An attorney may not attend the hearing in your place. However, if you are the child at issue in this proceeding and you have an attorney, you may rely upon your attorney to appear at the hearing on your behalf.

_____ To appear in person before this Court at _____ (address), Courtroom #_____, _____, Oregon, on the _____ day of _____, 2____, at ____ o'clock ___.m. to admit or deny the allegations of the petition and at any subsequent court-ordered hearing. You must appear personally in the courtroom on the date and at the time listed above. An attorney may not attend the hearing in your place. However, if you are the child at issue in this proceeding and you have an attorney, you may rely upon your attorney to appear at the hearing on your behalf.

_____ To file a written answer to the petition no later than 30 days after the date you were served with this summons and to appear at any court-ordered hearing. An attorney may not attend any court-ordered hearing in your place. However, if you are the child at issue in this proceeding and you have an attorney, you may rely upon your attorney to file and to appear at the hearing on your behalf.

NOTICE:
READ THESE PAPERS CAREFULLY!!

A petition has been filed to establish jurisdiction under ORS 419B.100. A copy of the petition is attached.

No later than 30 days from the date the petition is filed, each person about whom allegations have been made in the petition must admit or deny the allegations. Unless directed otherwise above, the admission or denial may be made orally at the hearing or filed with the court in writing.

If you do not appear or file a written answer as directed above, or do not appear at any subsequent court-ordered hearing, the Court may proceed without further notice and take jurisdiction of the child(ren) either on the date specified in this summons or on a future date, and make such orders and take such action as authorized by law including, but not limited to, establishing wardship over the child, ordering the removal of the child(ren) from the legal and physical custody of the parent(s) or guardian(s) and, if the petition alleges that the child(ren) has (have) been physically or sexually abused, restraining you from having contact with, or attempting to contact, the child(ren) and requiring you to move from the household in which the child(ren) resides (reside).

RIGHTS AND OBLIGATIONS

You have a right to be represented by an attorney. If you wish to be represented by an attorney, please retain one as soon as possible to represent you in this proceeding. If you are the child or the parent or legal guardian of the child and you cannot afford to hire an attorney and you meet the state's financial guidelines, you are entitled to have an attorney appointed for you at state expense. To request appointment of an attorney to represent you at state expense, you must contact the juvenile court immediately. Phone _____ for further information. If you are represented by an attorney, it is your responsibility to maintain contact with your attorney and to keep your attorney advised of your whereabouts.

If you are a parent or other person legally obligated to support the child(ren), you have the obligation to support the child(ren). You may be required to pay for compensation and reasonable expenses for the child(ren)'s attorney. You may be required to pay support for the child(ren) while the child(ren) is (are) in state financed or state supported custody. You may be required to provide health insurance coverage for the child(ren) while the child(ren) is (are) in state financed or state supported custody. You may be required to pay other costs that arise from the child(ren) being in the jurisdiction of the Court. If you are ordered to pay for the child(ren)'s support or there is an existing order of support from a divorce or other proceeding, that support order may be assigned to the state to apply to the costs of the child(ren)'s care.

If this summons requires you to appear before the court to admit or deny the allegations of the petition or requires you to file a written answer to the petition and you contest the petition, the court will schedule a hearing on the allegations of the petition and order you to appear personally and may schedule other hearings related to the petition and order you to appear personally. If you are ordered to appear, you must appear personally in the courtroom, unless the court has granted you an exception in advance under ORS 419B.918 to appear by other means including, but not limited to, telephonic or other electronic means. If you are the child at issue in this proceeding and you have an attorney, your attorney may appear in your place.

If your rights are adversely affected by the court's judgment or decision regarding jurisdiction or disposition, you have the right to appeal under ORS 419A.200. If you decide to appeal a judgment or decision of the court, you must file a notice of appeal no later than 30 days after the entry of the court's judgment or decision as provided in ORS 419A.200. You have a right to be represented by an attorney in an appeal under ORS 419A.200. If you are the child or the parent or legal guardian of the child and you cannot afford to hire an attorney and you meet the state's financial guidelines, you are entitled to have an attorney appointed for you at state expense. To request appointment of an attorney to represent you at state expense in an appeal under ORS 419A.200, you must contact the juvenile court immediately. Phone _____ for further information.

By: (Name and Title)
Date Issued: _____

_____

[2001 c.622 §7; 2003 c.73 §68; 2003 c.205 §8; 2007 c.497 §5; 2011 c.116 §1]

419B.819 Summons for proceeding to establish permanent guardianship or terminate parental rights; contents; failure to appear. (1) A court may make an order establishing permanent guardianship under ORS 419B.365 or terminating parental rights under ORS 419B.500, 419B.502, 419B.504, 419B.506 or 419B.508 only after service of summons and a true copy of the petition on the parent, as provided in ORS 419B.812, 419B.823, 419B.824, 419B.827, 419B.830 and 419B.833. A putative father who satisfies the criteria set out in ORS 419B.839 (1)(d) or

419B.875 (1)(a)(C) also must be served with summons and a true copy of the petition, unless a court of competent jurisdiction has found him not to be the child or ward's legal or biological father or he has filed a petition for filiation that was dismissed and no appeal of the judgment or order is pending.

(2) A summons under this section must require one of the following:

(a) That the parent appear personally before the court at the time and place specified in the summons for a hearing on the allegations of the petition;

(b) That the parent appear personally before the court at the time and place specified in the summons to admit or deny the allegations of the petition; or

(c) That the parent file a written answer to the petition within 30 days from the date on which the parent is served with the summons.

(3) If the court does not direct the type of response to be required by the summons under subsection (2) of this section, the summons shall require the parent to respond in the manner authorized by subsection (2)(c) of this section.

(4) A summons under this section must contain:

(a) A statement that the rights of the parent are proposed to be terminated or, if the petition seeks to establish a permanent guardianship, that a permanent guardianship is proposed to be established.

(b) A statement that, if the parent fails to appear at the time and place specified in the summons or in an order under ORS 419B.820 or, if the summons requires the filing of a written answer, fails to file the answer within the time provided, the court may, without further notice and in the parent's absence, terminate the parent's rights or grant the guardianship petition, either on the date specified in the summons or order or on a future date, and may take any other action that is authorized by law.

(c) A notice that the parent has the right to be represented by an attorney. The notice must be in substantially the following form:

You have a right to be represented by an attorney. If you wish to be represented by an attorney, please retain one as soon as possible to represent you in this proceeding. If you cannot afford to hire an attorney and you meet the state's financial guidelines, you are entitled to have an attorney appointed for you at state expense. To request appointment of an attorney to represent you at state expense, you must contact the juvenile court immediately. Phone _____ for further information.

(d) A statement that, if the parent is represented by an attorney, the parent has the responsibility to maintain contact with the parent's attorney and to keep the attorney advised of the parent's whereabouts.

(e) A statement that, if the parent is represented by an attorney, the parent must appear personally at any hearing where the parent is required to appear. The statement must explain that "appear personally" does not include appearance through the parent's attorney.

(f) A statement that, if the court has granted the parent an exception in advance under ORS 419B.918, the parent may appear in any manner permitted by the court under ORS 419B.918.

(5) If the summons requires the parent to appear before the court to admit or deny the allegations of the petition or requires the parent to file a written answer to the petition, the summons must advise the parent that, if the parent contests the petition, the court:

(a) Will schedule a hearing on the allegations of the petition and order the parent to appear personally; and

(b) May schedule other hearings related to the petition and order the parent to appear personally.

(6) At a hearing, when the parent is required to appear personally, or in the parent's written answer to the petition, the parent shall inform the court and the petitioner of the parent's current residence address, mailing address and telephone number.

(7) If a parent fails to appear for any hearing related to the petition, or fails to file a written answer, as directed by summons or court order under this section or ORS 419B.820, the court, without further notice and in the parent's absence, may:

(a) Terminate the parent's rights or, if the petition seeks to establish a permanent guardianship, grant the guardianship petition either on the date specified in the summons or order or on a future date; and

(b) Take any other action that is authorized by law.

(8) If the summons requires the parent to appear personally before the court, or if a court orders the parent to appear personally at a hearing in the manner provided in ORS 419B.820, the parent may not appear through the parent's attorney.

(9) If a guardian ad litem has been appointed for a parent under ORS 419B.231, a

copy of the summons served on the parent under this section must be provided to the guardian ad litem. [2003 c.205 §3; 2005 c.160 §2; 2005 c.450 §5; 2007 c.454 §13; 2007 c.497 §6]

419B.820 Notice to parent contesting petition to establish permanent guardianship or terminate parental rights. If the parent appears in the manner provided in ORS 419B.819 (2)(b) or (c) and the parent contests the petition, the court, by written order provided to the parent in person or mailed to the parent at the address provided by the parent or by oral order made on the record, shall:

(1) Inform the parent of the time, place and purpose of the next hearing or hearings related to the petition;

(2) Require the parent to appear personally at the next hearing or hearings related to the petition;

(3) Inform the parent that, if the parent is represented by an attorney, the parent's attorney may not attend the hearing in place of the parent;

(4) Inform the parent that, if the court has granted the parent an exception in advance under ORS 419B.918, the parent may appear in any manner permitted by the court under ORS 419B.918; and

(5) Inform the parent that, if the parent fails to appear as ordered for any hearing related to the petition, the court, without further notice and in the parent's absence, may:

(a) Terminate the parent's rights or, if the petition seeks to establish a permanent guardianship, grant the guardianship petition either on the date specified in the order or on a future date; and

(b) Take any other action that is authorized by law. [2003 c.205 §5; 2007 c.497 §7]

Note: 419B.820 was added to and made a part of ORS chapter 419B by legislative action but was not added to any smaller series therein. See Preface to Oregon Revised Statutes for further explanation.

419B.821 [2001 c.622 §8; 2003 c.230 §1; renumbered 419B.823 in 2003]

419B.822 Form of summons under ORS 419B.819. The summons for appearance in a proceeding to establish permanent guardianship under ORS 419B.365 or to terminate parental rights under ORS 419B.500, 419B.502, 419B.504, 419B.506 or 419B.508 must be in substantially the following form:

IN THE CIRCUIT COURT
OF THE STATE OF OREGON
FOR _____ COUNTY

In the Matter of	)
	) No.
	) Petition No.
	)
A Child.	) SUMMONS

TO: Name and address

IN THE NAME OF THE STATE OF OREGON:
You are directed:

____ To appear in person before this Court at _____ (address), Courtroom #_____, _____, Oregon, on: the _____ day of _____, 2____, at ____ o'clock ___.m. for a hearing on the allegations of the petition and at any subsequent court-ordered hearing. You must appear personally in the courtroom on the date and at the time listed above. An attorney may not attend the hearing in your place.

____ To appear in person before this Court at _____ (address), Courtroom #_____, _____, Oregon, on: the _____ day of _____, 2____, at ____ o'clock ___.m. to admit or deny the allegations of the petition and at any subsequent court-ordered hearing. You must appear personally in the courtroom on the date and at the time listed above. An attorney may not attend the hearing in your place.

____ To file a written answer to the petition no later than 30 days after the date you were served with this summons and to appear at any court-ordered hearing. An attorney may not attend any court-ordered hearing in your place.

NOTICE:
READ THESE PAPERS CAREFULLY!!

A petition has been filed to:

____ Establish a permanent guardianship under ORS 419B.365.

____ Terminate your parental rights under ORS 419B.500, 419B.502, 419B.504, 419B.506 or 419B.508.

A copy of the petition is attached.

If you do not appear or file a written answer as directed above, or do not appear at any subsequent court-ordered hearing, the Court may proceed without further notice and (establish a permanent guardianship) (terminate your parental rights) either on the date specified in this summons or on a future

date, and make such orders and take such action as authorized by law.

RIGHTS AND OBLIGATIONS

You have a right to be represented by an attorney. If you wish to be represented by an attorney, please retain one as soon as possible to represent you in this proceeding. If you cannot afford to hire an attorney and you meet the state's financial guidelines, you are entitled to have an attorney appointed for you at state expense. To request appointment of an attorney to represent you at state expense, you must contact the juvenile court immediately. Phone _____ for further information. If you are represented by an attorney, it is your responsibility to maintain contact with your attorney and to keep your attorney advised of your whereabouts.

If this summons requires you to appear before the court to admit or deny the allegations of the petition or requires you to file a written answer to the petition and you contest the petition, the court will schedule a hearing on the allegations of the petition and order you to appear personally and may schedule other hearings related to the petition and order you to appear personally. If you are ordered to appear, you must appear personally in the courtroom, unless the court has granted you an exception in advance under ORS 419B.918 to appear by other means including, but not limited to, telephonic or other electronic means.

By: (Name and Title)
Date Issued: _____

_____

[2003 c.205 §7; 2007 c.497 §8]

419B.823 Service of summons generally. The summons must be served, either inside or outside of the state, in a manner reasonably calculated under all the circumstances to apprise the person served of the existence and pendency of the juvenile proceeding and to afford the person a reasonable opportunity to appear. Service of summons may be made, subject to the restrictions and requirements of ORS 419B.824, by the following methods:

(1) Personal service of the summons and petition upon the person to be served;

(2) Substituted service by leaving a copy of the summons and petition at a person's dwelling house or usual place of abode;

(3) Office service by leaving the summons and petition with a person who is apparently in charge of an office;

(4) Service by mail; or

(5) Alternative service as ordered by the court under ORS 419B.824 (5). [Formerly 419B.821]

419B.824 Methods of serving summons. (1) Personal service may be made by delivery of a true copy of the summons and a true copy of the petition to the person to be served.

(2) Substituted service may be made by delivering a true copy of the summons and a true copy of the petition at the dwelling house or usual place of abode of the person to be served to any person 14 years of age or older residing in the dwelling house or usual place of abode. When substituted service is used, the person effecting service shall cause to be mailed a true copy of the summons and a true copy of the petition and a statement of the date, time, and place at which substituted service was made. The summons, petition and statement must be mailed by first class mail to the dwelling house or usual place of abode of the person who has been served as soon as is practicable after the substituted service was made. When the computation of a period of time is based on service of summons, substituted service is complete upon such mailing.

(3) If the person to be served maintains an office for conducting business, office service may be made by leaving a true copy of the summons and a true copy of the petition at the office during normal working hours with the person who is apparently in charge. When office service is used, the person effecting service shall cause to be mailed a true copy of the summons and a true copy of the petition and a statement of the date, time, and place at which office service was made. The summons, petition and statement must be mailed by first class mail to the person who has been served at the person's dwelling house or usual place of abode, place of business or such other place under the circumstances that is most reasonably calculated to apprise the person of the existence and pendency of the juvenile proceeding. The summons, petition and statement must be mailed as soon as is practicable after the office service was made. When the computation of a period of time is based on service of summons, office service is complete upon such mailing.

(4) Service by mail must be made by mailing a true copy of the summons and a true copy of the petition to the person to be served by first class mail and another true copy of the petition and another true copy of the summons by certified or registered mail, return receipt requested, or by express mail. Service by mail is not complete unless the person to be served signs a receipt for the mail. Service by mail is complete on the

date that the person to be served signs a receipt for the mail.

(5)(a) If any parent or guardian required to be summoned as provided in ORS 419B.812 to 419B.839 cannot be served as provided in ORS 419B.823 (1) to (4), the court may order alternative service of summons on the parent or guardian in any of the following methods or combination of methods that under the circumstances is most reasonably calculated to notify the parent or guardian of the existence and pendency of the action:

(A) By sending the parent or guardian a copy of the summons by first class mail and an additional copy by registered or certified mail, return receipt requested, to one or more addresses;

(B) By posting at specified locations; or

(C) By publication of summons pursuant to subsection (6) of this section.

(b) If alternative service is ordered the court shall specify a time for response.

(6)(a) On written motion and affidavit that service cannot be made by any method otherwise specified in this section, the court may order service by publication.

(b) In addition to the contents of a summons as described in ORS 419B.815 or 419B.819, a published summons must also contain the date of first publication of the summons. If the names of one or both parents or the guardian are unknown, they may be summoned as "The parent(s) or guardian of (naming or describing the child), found (stating the address or place where the child was found)".

(c) An order for publication must direct that publication be made in a newspaper of general circulation in the county where the action is commenced or, if there is no such newspaper, in a newspaper to be designated as most likely to give notice to the person to be served. The summons must be published three times in successive calendar weeks. If the person effecting service knows of a specific location other than the county where the action is commenced where publication might reasonably result in actual notice to the person to be served, the person effecting service shall so state in the affidavit required by paragraph (a) of this subsection, and the court may order publication in a comparable manner at such location in addition to, or in lieu of, publication in the county where the action is commenced.

(d) If the court orders service by publication and the person effecting service does not know and cannot upon diligent inquiry ascertain the current address of a person being served, a copy of the summons and the petition must be mailed by the methods specified in subsection (4) of this section to the person being served at that person's last known address. If the person effecting service does not know, and cannot ascertain upon diligent inquiry, the current or last known address of the person being served, mailing of a copy of the summons and the petition is not required.

(7) For purposes of this section, "first class mail" does not include certified or registered mail or any other form of mail that may delay actual delivery of the mail to the addressee. [2001 c.622 §9; 2003 c.205 §14; 2003 c.230 §2]

419B.827 Responsibility for costs of service of summons and travel expenses of party summoned. The court may authorize payment of travel expenses of any party summoned. Except as provided in this section, responsibility for the payment of the cost of service of summons or other process on any party, and for payment of travel expenses so authorized, shall be borne by the party issuing the summons or requesting the court to issue the summons. When the Department of Human Services issues the summons or requests the court to issue the summons, responsibility for such payment shall be borne by the county. [Formerly 419B.280]

419B.830 Return of summons. The summons must be promptly returned to the clerk with whom the petition is filed with proof of service or mailing or with proof that the person to be served cannot be found. The summons may be returned by first class mail. [2001 c.622 §10]

419B.833 Proof of service of summons or mailing. (1) Except for service by publication, proof of service of summons or mailing must be made by:

(a) The certificate of the server if the summons is not served by a sheriff or a sheriff's deputy. The certificate must indicate the time, place and manner of service, that the server is a competent person of at least 18 years of age and is a resident of the state of service or of this state and that the server reasonably believes that the person served is the identical one named in the summons. If the person served was not personally served, the server shall state in the certificate when, where and with whom a copy of the summons and petition was left or describe in detail the manner and circumstances of service. If the summons and petition were mailed, the certificate may be made by the person completing the mailing or the attorney for any party and must state the circumstances of mailing and have the return receipt attached.

(b) The sheriff's or sheriff's deputy's certificate of service if the summons is served by a sheriff or a sheriff's deputy. The certificate must indicate the time, place and man-

ner of service and, if the person served was not personally served, when, where and with whom a copy of the summons and petition was left or describe in detail the manner and circumstances of service. If the summons and petition were mailed, the certificate must state the circumstances of mailing and have the return receipt attached.

(2) Service by publication must be proved by an affidavit in substantially the following form:

AFFIDAVIT OF PUBLICATION

STATE OF OREGON)
) ss.
County of _____)

I, _____, being first duly sworn, depose and say that I am the _____ (here set forth the title or job description of the person making the affidavit), of the _____, a newspaper of general circulation published at _____ in the aforesaid county and state; that I know from my personal knowledge that the _____, a printed copy of which is hereto annexed, was published in the entire issue of said newspaper three times in the following issues: (here set forth dates of issues in which the same was published).

Subscribed and sworn to before me this _____ day of _____, 2_____.

_____
Notary Public for Oregon
My commission expires:
_____.

---

(3) The affidavit of service may be made and certified before a notary public or other official authorized to administer oaths by the United States, any state or territory of the United States or the District of Columbia. The notary public or official shall affix the notary's or official's official seal, if any, to the affidavit. The signature of the notary or other official, when attested by the affixing of the official seal of the person, is prima facie evidence of authority to make and certify the affidavit.

(4) A certificate or affidavit containing proof of service may be made upon the summons or as a separate document attached to the summons.

(5) In addition to the other ways specified in this section, proof of service may be made by a written acceptance of service by the person who was served.

(6) If summons has been properly served, failure to make or file a proper proof of service does not affect the validity of the service. [2001 c.622 §11]

419B.836 Effect of error in summons or service of summons. Failure to comply with provisions of ORS 419B.812, 419B.815, 419B.818, 419B.819, 419B.822 and 419B.839 relating to the form of summons, issuance of summons or who may serve summons does not affect the validity of service of summons or the existence of jurisdiction over the person if the court determines that the served person received actual notice of the substance and pendency of the action. The court may allow amendment to a summons or affidavit or certificate of service of summons. The court shall disregard any error in the content of summons that does not materially prejudice the substantive rights of the party to whom summons was issued. If service is made in any manner complying with ORS 419B.812 to 419B.839, the court shall also disregard any error in the service of summons that does not violate the due process rights of the party against whom summons was issued. [2001 c.622 §12; 2003 c.205 §15]

419B.839 Required and discretionary summons. (1) Summons in proceedings to establish jurisdiction under ORS 419B.100 must be served on:

(a) The parents of the child without regard to who has legal or physical custody of the child;

(b) The legal guardian of the child;

(c) A putative father of the child who satisfies the criteria set out in ORS 419B.875 (1)(a)(C), except as provided in subsection (4) of this section;

(d) A putative father of the child if notice of the initiation of filiation or paternity proceedings was on file with the Center for Health Statistics of the Oregon Health Authority prior to the initiation of the juvenile court proceedings, except as provided in subsection (4) of this section;

(e) The person who has physical custody of the child, if the child is not in the physical custody of a parent; and

(f) The child, if the child is 12 years of age or older.

(2) If it appears to the court that the welfare of the child or of the public requires that the child immediately be taken into custody, the court may indorse an order on the summons directing the officer serving it to take the child into custody.

(3) Summons may be issued requiring the appearance of any person whose presence the court deems necessary.

(4) Summons under subsection (1) of this section is not required to be given to a putative father whom a court of competent ju-

risdiction has found not to be the child's legal father or who has filed a petition for filiation that was dismissed if no appeal from the judgment or order is pending.

(5) If a guardian ad litem has been appointed for a parent under ORS 419B.231, a copy of a summons served on the parent under this section must be provided to the guardian ad litem. [2001 c.622 §13; 2003 c.205 §9; 2005 c.160 §3; 2005 c.450 §6; 2009 c.595 §365]

419B.842 When arrest warrant authorized. (1) No person required to appear as provided in ORS 419B.812 to 419B.839 shall without reasonable cause fail to appear or, where directed in the summons, to bring the child before the court.

(2) If the summons cannot be served, if the person to whom the summons is directed fails to obey it or if it appears to the court that the summons will be ineffectual, the court may direct issuance of a warrant of arrest against the person summoned or against the child. [Formerly 419B.282]

419B.845 Restraining order when child abuse alleged. (1)(a) When a petition has been filed alleging that the child has been physically or sexually abused, the court may enter an order restraining the alleged perpetrator of the abuse from having contact with the child or attempting to contact the child and requiring the alleged perpetrator to move from the household in which the child resides. The court may issue a restraining order only if the court finds that:

(A) There is probable cause to believe the abuse occurred and that the person to be restrained committed the abuse; and

(B) The order is in the best interest of the child.

(b) Upon finding that to do so would aid in protecting the victim of the alleged abuse, the court may enter, in addition to a restraining order described in paragraph (a) of this subsection, other appropriate orders including, but not limited to, orders that control contact between the alleged abuser and other children in the household.

(c) The court shall include in an order entered under this subsection the following information about the person to be restrained:

(A) Name;

(B) Address;

(C) Age and birth date;

(D) Race;

(E) Sex;

(F) Height and weight; and

(G) Color of hair and eyes.

(d) The court may include in the order a provision that a peace officer accompany the restrained person to the household when it is necessary for the person to remove the person's essential personal effects including, but not limited to, clothing, toiletries, medications, Social Security cards, birth certificates, identification and tools of the trade. The restrained person is entitled to remove the person's essential personal effects under this paragraph on one occasion only and is required to be accompanied by a peace officer. The restrained person and the peace officer shall remain for no longer than 20 minutes and the peace officer may temporarily interrupt the removal of essential personal effects at any time. Nothing in this paragraph affects a peace officer's duty to arrest under ORS 133.055 and 133.310. A peace officer who accompanies a restrained person under this paragraph has immunity from any liability, civil or criminal, for any actions the person commits during the removal of the person's essential personal effects.

(2) If the court enters an order under this section:

(a) The clerk of the court shall provide without charge the number of certified copies of the petition and order necessary to effect service and shall have a copy of the petition and order delivered to the sheriff or other person qualified to serve the order for service upon the person to be restrained; and

(b) The sheriff or other person qualified to serve the order shall serve the person to be restrained personally unless that person is present at the hearing. After accepting the order, if the sheriff or other person cannot complete service within 10 days, the sheriff or other person shall hold the order for future service and file a return to the clerk of the court showing that service was not completed.

(3) Within 30 days after an order is served under this section, the restrained person may file a written request with the court and receive a court hearing on any portion of the order. If the restrained person requests a hearing under this subsection:

(a) The clerk of the court shall notify the parties and, if the restrained person is not a party, the restrained person of the date and time of the hearing; and

(b) The court shall hold the hearing within 21 days after the request and may cancel or modify the order.

(4) Upon receipt of a copy of the order and notice of completion of any required service by a member of a law enforcement agency, the sheriff shall immediately enter the order into the Law Enforcement Data

System maintained by the Department of State Police. If the order was served on the person to be restrained by a person other than a member of a law enforcement agency, the county sheriff shall enter the order into the Law Enforcement Data System upon receipt of a true copy of the affidavit of proof of service. Entry into the Law Enforcement Data System constitutes notice to all law enforcement agencies of the existence of the order. Law enforcement agencies shall establish procedures adequate to ensure that an officer at the scene of an alleged violation of the order may be informed of the existence and terms of the order. The order is fully enforceable in any county in this state.

(5) A restraining order issued pursuant to this section remains in effect for a period of one year or until the order is modified, amended or terminated by court order.

(6) A court that issued a restraining order under this section may renew the order for a period of up to one year if the court finds that there is probable cause to believe the renewal is in the best interest of the child. The court may renew the order on motion alleging facts supporting the required finding. If the renewal order is granted, subsections (2) and (3) of this section apply.

(7) If a restraining order issued pursuant to this section is terminated before its expiration date, the clerk of the court shall immediately deliver a copy of the termination order to the sheriff. The sheriff shall promptly remove the original order from the Law Enforcement Data System.

(8) Pending a contempt hearing for alleged violation of a restraining order issued under this section, a person arrested and taken into custody pursuant to ORS 133.310 may be released as provided in ORS 135.230 to 135.290. Unless the order provides otherwise, the security amount for release shall be $5,000.

(9) When a restraining order entered under this section prohibits the restrained person from contacting the protected person in writing, the restrained person does not violate the restraining order by serving on the protected person a copy of a notice of appeal of the restraining order or any other document required by law to be served on the adverse party to an appeal if:

(a) Neither the restrained person nor the protected person is represented by counsel;

(b) The restrained person serves the document by mail; and

(c) The contents of the document are not intended to harass or intimidate the protected person. [Formerly 419B.190; 2007 c.255 §13; 2011 c.269 §7]

419B.846 Service of restraining order. (1) A sheriff may serve a restraining order issued under ORS 419B.845 in the county in which the sheriff was elected and in any county that is adjacent to the county in which the sheriff was elected.

(2) A sheriff may serve and enter into the Law Enforcement Data System a copy of a restraining order under ORS 419B.845 that was transmitted to the sheriff by a court or law enforcement agency using an electronic communication device. Before transmitting a restraining order to a sheriff under this subsection by telephonic facsimile or electronic mail, the person sending the copy must receive confirmation from the sheriff's office that an electronic communication device is available and operating. For purposes of this subsection, "electronic communication device" means a device by which any kind of electronic communication can be made, including but not limited to communication by telephonic facsimile and electronic mail. [2003 c.304 §14; 2007 c.255 §14; 2011 c.269 §8]

419B.848 Process generally. (1) All process authorized to be issued by any court or officer of the court runs in the name of the State of Oregon and must be signed by the officer issuing the process, and if the process is issued by a clerk of the court, the seal of office of the clerk must be affixed to the process. Summonses and subpoenas are not process.

(2) A civil process may be served or executed on Sunday or any legal holiday. No limitation or prohibition stated in ORS 1.060 applies to the service or execution of a civil process on a Sunday or legal holiday.

(3) An order in any case, and all other papers requiring service, may be transmitted by telegraph or facsimile for service in any place. The facsimile or telegraphic copy, as defined in ORS 165.840, of the order or paper transmitted may be served or executed by the officer or person to whom it is sent for that purpose and returned by the officer or person if any return is required in the same manner and with the same force and effect in all respects as if the copy were the original. The officer or person serving or executing the order or paper has the same authority and is subject to the same liabilities as if the copy were the original. The original, if an order, must be filed in the court from which it was issued and a certified copy of the order must be preserved in the office from which it was sent. The operator may use either the original or certified copy to transmit the order or paper.

(4) Proof of service or execution of process must be made as provided in ORS 419B.833. [2001 c.622 §14]

419B.851 Service of process; filing; proof of service. (1) Except as otherwise provided in ORS 419B.800 to 419B.929, every order, every petition and answer subsequent to the original petition, every written motion other than one that may be heard ex parte and every written request and similar paper must be served upon each of the parties.

(2)(a) Whenever under ORS 419B.800 to 419B.929 service is required or permitted to be made upon a party, and that party is represented by an attorney, the service must be made upon the attorney unless otherwise ordered by the court. Service upon the attorney or upon a party must be made by delivering a copy to the attorney or party, by mailing it to the attorney's or party's last known address or, if the party is represented by an attorney, by facsimile communication device as provided in subsection (6) of this section. As used in this paragraph, "delivery of a copy" means:

(A) Handing it to the person to be served;

(B) Leaving it at the person's office with the person's clerk or a person apparently in charge of the office or, if there is no one in charge, leaving it in a conspicuous place in the office; or

(C) If the office is closed or the person to be served has no office, leaving it at the person's dwelling house or usual place of abode with a person who is over 14 years of age and who resides at the dwelling house or usual place of abode.

(b) A party who has appeared without providing an appropriate address for service may be served by placing a copy of the paper required to be served in the court file. Service by mail is complete upon mailing. Service of any notice or other paper to bring a party into contempt may only be upon such party personally.

(3) When a petition is filed under subsection (1) of this section alleging that a child who is a foreign national is within the jurisdiction of the court, or when a motion is filed requesting implementation of a plan other than return of a ward to the ward's parent, a copy of the petition or motion shall be served on the consulate for the child or ward's country.

(4) All papers required to be served upon a party under subsection (1) of this section must be filed with the court within a reasonable time after service. Except as otherwise provided in ORS 419B.812 to 419B.839 and 419B.845, proof of service of all papers required or permitted to be served may be by written acknowledgment of service, by an affidavit of the person making service or by a certificate of an attorney. Proof of service may be made upon the papers served or as a separate document attached to the papers. When service is made by facsimile communication device, proof of service must be made by an affidavit of the person making service or by a certificate of an attorney. The printed confirmation of receipt of the message generated by the facsimile machine must be attached to the affidavit or certificate.

(5) The filing of any papers with the court must be made by filing them with the clerk of the court or the person exercising the duties of that office. The clerk or the person exercising the duties of that office shall indorse the time of day, day of the month, month and year upon the paper. The clerk or person exercising the duties of that office is not required to receive any paper for filing unless:

(a) The contents of the paper are legible; and

(b) All of the following are legibly indorsed on the front of the paper:

(A) The name of the court;

(B) The title of the cause and the paper;

(C) The names of the parties; and

(D) If there is one, the name of the attorney for the parties requesting filing.

(6) Whenever under ORS 419B.800 to 419B.929 service is required or permitted to be made upon a party and that party is represented by an attorney, the service may be made upon the attorney by means of a facsimile if the attorney maintains such a device at the attorney's office and the device is operating at the time service is made. [2001 c.622 §15; 2003 c.143 §5; 2003 c.396 §34b]

419B.854 Computing statutory time periods. (1) In computing any period of time prescribed or allowed by any applicable statute, by the local rules of any court or by order of court, the day of the act or event from which the designated period of time begins to run is not included. The last day of the period so computed is included, unless it is a Saturday or legal holiday, in which event the period runs until the end of the next day that is not a Saturday or a legal holiday. If the period of time relates to serving a public officer or filing a document at a public office and if the last day falls on a day when that particular office is closed before the end of or for all of the normal work day, the last day is excluded in computing the period of time, in which event the period runs until the close of office hours on the next day the office is open for business. When the period of time prescribed or allowed, without including the extra time allowed by subsection (2) of this section, is less than seven days, intermediate Saturdays and legal holidays are excluded in the computation. As used in

this subsection, a "legal holiday" means a day described in ORS 187.010 or 187.020.

(2) Except for service of summons, whenever a party has the right or is required to do some act within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served by mail, three days are added to the prescribed period. [2001 c.622 §16]

419B.857 Pleadings; construction. (1) All petitions, answers, motions and other papers must be liberally construed with a view of substantial justice between the parties.

(2) In every stage of an action, the court shall disregard an error or defect in a petition, answer, motion, other paper or proceeding that does not affect the substantial rights of the adverse party. [2001 c.622 §17]

419B.860 Motions. (1) An application for an order is a motion. Unless a motion is made in court, the motion must be in writing, state with particularity the factual and legal grounds for the motion and set forth the relief or order sought.

(2) ORS 419B.863 and 419B.866 and any local rules of any court applicable to captions, signing and other matters of form of petitions and answers apply to all motions and other papers provided for by ORS 419B.800 to 419B.929. [2001 c.622 §18]

419B.863 Pleadings; captions. (1) Every petition, answer, motion or other paper must contain a caption setting forth the name of the court, the title of the action and the register number of the case.

(2) When a party does not know the name of another party and alleges that lack of knowledge in a petition, answer, motion or other paper, the other party may be designated by any name. When the other party's true name is discovered, the process and all petitions, answers, motions, other papers and proceedings in the case may be amended by substituting the true name. [2001 c.622 §19]

419B.866 Signing pleadings required; effect of signing or not signing. (1) If a party is represented by an attorney, every answer, motion and other paper of the party must be signed by an attorney of record who is an active member of the Oregon State Bar. If a party is not represented by an attorney, the party shall sign the petition, answer, motion or other paper and state the address of the party. Only petitions need be verified. Motions must be accompanied by an affidavit unless the parties agree otherwise.

(2) If a petition, answer, motion or other paper is not signed, it must be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant.

(3)(a) Except as otherwise provided in paragraph (d) of this subsection, by signing, filing or otherwise submitting an argument in support of a petition, answer, motion or other paper, an attorney or party makes the certifications to the court identified in paragraphs (b), (c) and (d) of this subsection and further certifies that the certifications are based on the person's reasonable knowledge, information and belief formed after the making of any inquiry that is reasonable under the circumstances.

(b) A party or attorney certifies that the petition, answer, motion or other paper is not being presented for any improper purpose including, but not limited to, harassing or causing unnecessary delay or needless increase in the cost of litigation.

(c) An attorney certifies that the claims and other legal positions taken in the petition, answer, motion or other paper are warranted by existing law or by a nonfrivolous argument for the extension, modification or reversal of existing law or the establishment of new law.

(d) A party or attorney certifies that the allegations and other factual assertions in the petition, answer, motion or other paper are supported by evidence. An allegation or other factual assertion that the party or attorney does not wish to certify is supported by evidence must be specifically identified. The party or attorney certifies that the party or attorney reasonably believes that an allegation or other factual assertion so identified will be supported by evidence after further investigation and discovery. [2001 c.622 §20]

419B.869 Responding to pleadings; time limit. (1) No later than 30 days after a petition alleging jurisdiction under ORS 419B.100 is filed, each party about whom allegations have been made shall admit or deny the allegations. Unless the court specifies how admissions or denials are to be made pursuant to ORS 419B.800, admissions and denials may be made orally in court or in writing.

(2) Allegations in a petition that are not admitted or denied are denied. [2001 c.622 §21]

419B.872 Amendment of pleadings. (1) A petition, answer, motion or other paper may be amended by a party within a reasonable time before an adjudication on the petition, answer, motion or other paper. Whenever an amended petition, answer, motion or other paper is filed, it shall be served upon all parties. When the interests of justice require additional time to prepare, due to the amendments to the petition, answer, motion or other paper, the court shall grant such additional time as is reasonable.

(2) The court, on motion of an interested party or on its own motion, may at any time direct that the petition be amended. If the amendment results in a substantial departure from the facts originally alleged, the court shall grant such continuance as the interests of justice may require. [Formerly 419B.245]

419B.875 Parties to proceedings; rights of limited participation; status of grandparents; interpreters. (1)(a) Parties to proceedings in the juvenile court under ORS 419B.100 and 419B.500 are:

(A) The child or ward;

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

(C) A putative father of the child or ward who has demonstrated a direct and significant commitment to the child or ward by assuming, or attempting to assume, responsibilities normally associated with parenthood, including but not limited to:

(i) Residing with the child or ward;

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

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

(D) The state;

(E) The juvenile department;

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

(G) The Department of Human Services or other child-caring agency if the agency has temporary custody of the child or ward; and

(H) The tribe in cases subject to the Indian Child Welfare Act if the tribe has intervened pursuant to the Indian Child Welfare Act.

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

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

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

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

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

(d) The right of appeal; and

(e) The right to request a hearing.

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

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

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

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

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

(7) When a legal grandparent of a child or ward requests in writing and provides a mailing address, the Department of Human Services shall give the legal grandparent notice of a hearing concerning the child or ward and the court shall give the legal grandparent an opportunity to be heard. Except when allowed to intervene, a legal grandparent is not considered a party to the juvenile court proceeding solely because of notice and an opportunity to be heard.

(8) Interpreters for parties and persons granted rights of limited participation shall be appointed in the manner specified by ORS 45.275 and 45.285. [Formerly 419B.115; 2003 c.231 §§1,2; 2003 c.396 §§93a,94a; 2005 c.160 §4; 2005 c.450 §8; 2007 c.454 §11; 2007 c.611 §9]

419B.878 Applicability of Indian Child Welfare Act. When a court conducts a hearing, the court shall inquire whether a child is an Indian child subject to the Indian Child Welfare Act. If the court knows or has reason to know that an Indian child is in-

volved, the court shall enter an order requiring the Department of Human Services to notify the Indian child's tribe of the pending proceedings and of the tribe's right to intervene and shall enter an order that the case be treated as an Indian Child Welfare Act case until such time as the court determines that the case is not an Indian Child Welfare Act case. [2001 c.622 §22]

419B.881 Disclosure; scope; when required; exceptions; breach of duty to disclose. (1) In all proceedings brought under ORS 419B.100 or 419B.500, each party, including the state, shall disclose to each other party and to a guardian ad litem appointed under ORS 419B.231 the following information and material within the possession or under the control of the party:

(a) The names and addresses of all persons the party intends to call as witnesses at any stage of the hearing, together with any relevant written or recorded statements or memoranda of any oral statements of such persons;

(b) Any written or recorded statements or memoranda of any oral statements made either by the parent or by the child to any other party or agent for any other party;

(c) Any reports or statements of experts who will be called as witnesses, including the results of any physical or mental examinations and of comparisons or experiments that the party intends to offer in evidence at the hearing; and

(d) Any books, papers, documents or photographs that the party intends to offer in evidence at the hearing, or that were obtained from or belong to any other party.

(2)(a) Disclosure shall be made as soon as practicable following the filing of a petition and no later than:

(A) Thirty days after a petition alleging jurisdiction has been filed.

(B) Three days before any review hearing, except for information received or discovered less than three days prior to the hearing.

(C) Ten days before a termination trial, except for information received or discovered less than 10 days prior to the trial.

(b) The court may supervise the exercise of discovery to the extent necessary to insure that it proceeds properly and expeditiously.

(3) The obligation to disclose is an ongoing obligation and if a party finds, either before or during the hearing, additional material or information that is subject to disclosure, the information or material shall be promptly disclosed.

(4) The following material and information need not be disclosed:

(a) Attorney work product; and

(b) Transcripts, recordings or memoranda of testimony of witnesses before the grand jury, except transcripts or recordings of testimony of a party to the current juvenile court proceeding.

(5) Upon a showing of good cause, the court may at any time order that specified disclosure be denied, restricted or deferred or make such other order as is appropriate.

(6) Upon request of a party, the court may permit a showing of good cause for denial or regulation of disclosure by the parties or the contents of subpoenaed materials, or portion of the showing, to be made in camera. A record shall be made of the proceeding.

(7) If the court enters an order following an in camera showing, the entire record of the showing shall be sealed and preserved in the records of the court, to be made available to the appellate court in the event of an appeal. The trial court may, after disposition, unseal the record.

(8) When some parts of certain material are subject to disclosure and other parts are not, as much of the material as is subject to disclosure shall be disclosed.

(9) Upon being notified of any breach of a duty to disclose material or information, the court may:

(a) Order the violating party to permit inspection of the material;

(b) Grant a continuance;

(c) Refuse to permit the witness to testify;

(d) Refuse to receive in evidence the material that was not disclosed; or

(e) Enter such other order as the court considers appropriate. [Formerly 419B.300; 2005 c.450 §9]

419B.884 Depositions; procedure. (1) After the commencement of a proceeding under ORS 419B.100 or 419B.500, a party may move the court for an order allowing a deposition to be taken to perpetuate the testimony of a witness who is:

(a) Outside the jurisdiction of, or otherwise not subject to the process of, the court; or

(b) Unable to attend because of age, sickness, infirmity, imprisonment or undue hardship.

(2) The affidavit in support of the motion to take a deposition to perpetuate testimony, in addition to setting forth the reasons described in subsection (1)(a) and (b) of this section, shall also set forth:

(a) The reasons why the testimony of the witness sought to be deposed cannot be taken by telephone at the time of the hearing;

(b) Where the deposition is to be taken;

(c) The manner of recording the deposition; and

(d) A brief statement of the substance of the testimony that the witness is expected to give.

(3) If the court finds that taking a deposition will best promote the just, speedy and inexpensive resolution of one or more issues in the proceeding or that taking a deposition is necessary to meet the requirements of due process, the court shall grant the motion.

(4) If the motion is granted, the court may, in its discretion, set conditions regarding the time, place and method of taking the deposition. [Formerly 419B.315]

419B.887 Objections at depositions; effect of failure to make timely objection; errors and irregularities in transcript preparation. (1) As used in this section, "deposition" means a deposition taken under ORS 419B.884.

(2) Objections to the competency of a witness or to the competency, relevancy, or materiality of testimony are not waived by failure to make them before or during the taking of a deposition unless the ground for the objection is one that might have been obviated or removed if presented before or during the taking of the deposition.

(3) Unless seasonable objection is made at the time the deposition is taken, the following are waived:

(a) Errors and irregularities occurring at the oral examination in the manner of taking the deposition, in the form of the questions or answers, in the oath or affirmation or in the conduct of the parties; and

(b) Errors of any kind that might be obviated, removed or cured if promptly presented.

(4) Unless a motion to suppress the deposition or some part of the deposition is made with reasonable promptness after the error or irregularity is, or with due diligence might have been, ascertained, errors and irregularities in the manner in which the testimony is transcribed or the deposition is prepared, signed, certified, sealed, indorsed, transmitted and filed are waived. [2001 c.622 §23]

419B.890 Dismissal of petition at end of petitioner's case; settlement conference. (1) After the proponent of the petition has completed the presentation of evidence, any other party, without waiving the right to offer evidence in the event the motion is not granted, may move for dismissal of any or all of the allegations of the petition on the ground that upon the facts and the law the proponent of the petition has failed to prove the allegations or, if proven, the allegations do not constitute a legal basis for the relief sought by the petition. The court may order dismissal of the petition or one or more of the allegations of the petition, or the court may decline to render any order until the close of all the evidence.

(2) Unless the court in its judgment of dismissal otherwise specifies, a dismissal under this section operates as an adjudication without prejudice.

(3) At any time at the request of a party or upon the court's own motion, the court may order a settlement conference or, if funds are available for a mediator, mediation. [2001 c.622 §24]

419B.893 Subpoenas generally. (1) A subpoena is a writ or an order directed to a person and may require the attendance of the person at a particular time and place to testify as a witness on behalf of a particular party mentioned in the subpoena or may require the person to produce books, papers, documents or other tangible things and permit inspection of them at a particular time and place. A subpoena may be for a trial, a hearing of any kind or a deposition under ORS 419B.884. A subpoena requiring attendance to testify as a witness requires that the witness remain until the testimony is closed unless sooner discharged, but at the end of each day's attendance a witness may demand of the party, or the party's attorney, the payment of legal witness fees for the next following day and if not then paid, the witness is not obliged to remain longer in attendance. Every subpoena must state the name of the court and the title of the action.

(2) Any party may have compulsory attendance of witnesses or the compulsory production of records. [2001 c.622 §25; 2003 c.14 §227]

419B.896 Subpoena for production of books, papers, documents and other tangible things. A subpoena may command the person to whom it is directed to produce and permit inspection and copying, at the time and place specified in the subpoena, of designated books, papers, documents or other tangible things in the possession, custody or control of the person. A command to produce books, papers, documents or other tangible things and permit inspection of them may be joined with a command to appear at trial or hearing or, if the books, papers, documents or other tangible things are to be produced before trial, the command may be issued separately. A person commanded to produce and permit inspection and copying of desig-

nated books, papers, documents or other tangible things but not commanded to also appear for deposition under ORS 419B.884, hearing or trial may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials. If objection is made, the party serving the subpoena may not inspect and copy the materials except pursuant to an order of the court in whose name the subpoena was issued. If objection has been made, the party serving the subpoena, upon notice to the person commanded to produce, may move for an order to compel production. When a subpoena commands production of books, papers, documents or other tangible things, the court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance with the subpoena, may:

(1) Quash or modify the subpoena if it is unreasonable and oppressive; or

(2) Condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents or other tangible things. [2001 c.622 §26; 2003 c.14 §228]

419B.899 Issuance of subpoena. (1) A subpoena may be issued:

(a) To require attendance before a court, at the trial of an issue in a court or, if separate from a subpoena commanding the attendance of a person, to produce and permit inspection of books, papers, documents or other tangible things. A subpoena may be issued under this paragraph:

(A) In blank by the clerk of the court in which the action is pending or, if there is no clerk, by a judge or justice of the court; or

(B) By an attorney of record of the party to the action in whose behalf the witness is required to appear, subscribed by the signature of the attorney.

(b) To require attendance at a deposition authorized under ORS 419B.884.

(c) To require attendance out of court in cases not provided for in paragraph (a) of this subsection, before a judge, justice or other officer authorized to administer oaths or take testimony in any matter under the laws of this state. A subpoena may be issued under this paragraph by the judge, justice or other officer before whom the attendance is required.

(2) Upon the request of a party or attorney, any subpoena issued by a clerk of court may be issued in blank and delivered to the party or attorney requesting it, who must fill it in before service.

(3) A subpoena to produce and permit inspection of records of a person who is not a party to the action must be served on the person and, if the person is represented, the person's attorney at least 10 days before the subpoena is served on the keeper or custodian of the records. [2001 c.622 §27; 2003 c.14 §229]

419B.902 Service of subpoena. (1) A subpoena may be served by the party or any other person 18 years of age or older. Except as provided in subsections (2), (3) and (4) of this section, the service must be made by delivering a copy to the witness personally. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance. If the subpoena is not accompanied by a command to appear at trial, hearing or deposition under ORS 419B.884, whether the subpoena is served personally or by mail, copies of a subpoena commanding production and inspection of books, papers, documents or other tangible things before trial must be served on each party at least seven days before the subpoena is served on the person required to produce and permit inspection, unless the court orders a shorter period.

(2)(a) A law enforcement agency shall designate an individual upon whom service of a subpoena may be made. A designated individual must be available during normal business hours. In the absence of a designated individual, service of a subpoena under paragraph (b) of this subsection may be made upon the officer in charge of the law enforcement agency.

(b) If a peace officer's attendance at trial is required as a result of employment as a peace officer, a subpoena may be served on the officer by delivering a copy personally to the officer or to an individual designated by the agency that employs the officer no later than 10 days prior to the date attendance is sought. A subpoena may be served in this manner only if the officer is currently employed as a peace officer and is present within the state at the time of service.

(c) When a subpoena has been served as provided in paragraph (b) of this subsection, the law enforcement agency shall make a good faith effort to give actual notice to the officer whose attendance is sought of the date, time and location of the court appearance. If the officer cannot be notified, the law enforcement agency shall promptly notify the court and a postponement or continuance may be granted to allow the officer to be personally served.

(d) As used in this subsection, "law enforcement agency" means the Oregon State

Police, a county sheriff's department, a municipal police department, a police department established by a university under ORS 352.383, or, if the witness whose attendance at trial is required is an authorized tribal police officer as defined in section 1, chapter 644, Oregon Laws 2011, a tribal government as defined in section 1, chapter 644, Oregon Laws 2011.

(3) Under the following circumstances, service of a subpoena to a witness by mail has the same legal force and effect as personal service:

(a) The attorney mailing the subpoena certifies in connection with or upon the return of service that the attorney, or the attorney's agent, has had personal or telephone contact with the witness and the witness indicated a willingness to appear at trial if subpoenaed; or

(b) The subpoena was mailed to the witness more than five days before trial by certified mail or some other designation of mail that provides a receipt for the mail signed by the recipient and the attorney received a return receipt signed by the witness prior to trial.

(4) Service of subpoena by mail may be used for a subpoena commanding production of books, papers, documents or other tangible things that is not accompanied by a command to appear at trial or hearing or at a deposition under ORS 419B.884.

(5) Proof of service of a subpoena is made in the same manner as proof of service of a summons except that the server is not required to certify that the server is not a party in the action or an attorney for a party in the action. [2001 c.622 §28; 2003 c.14 §230; 2011 c.644 §§30,68]

Note: The amendments to 419B.902 by section 75, chapter 644, Oregon Laws 2011, become operative July 1, 2015. See section 58, chapter 644, Oregon Laws 2011, as amended by section 77, chapter 644, Oregon Laws 2011. The text that is operative on and after July 1, 2015, is set forth for the user's convenience.

419B.902. (1) A subpoena may be served by the party or any other person 18 years of age or older. Except as provided in subsections (2), (3) and (4) of this section, the service must be made by delivering a copy to the witness personally. The service must be made so as to allow the witness a reasonable time for preparation and travel to the place of attendance. If the subpoena is not accompanied by a command to appear at trial, hearing or deposition under ORS 419B.884, whether the subpoena is served personally or by mail, copies of a subpoena commanding production and inspection of books, papers, documents or other tangible things before trial must be served on each party at least seven days before the subpoena is served on the person required to produce and permit inspection, unless the court orders a shorter period.

(2)(a) A law enforcement agency shall designate an individual upon whom service of a subpoena may be made. A designated individual must be available during normal business hours. In the absence of a designated individual, service of a subpoena under paragraph (b) of this subsection may be made upon the officer in charge of the law enforcement agency.

(b) If a peace officer's attendance at trial is required as a result of employment as a peace officer, a subpoena may be served on the officer by delivering a copy personally to the officer or to an individual designated by the agency that employs the officer no later than 10 days prior to the date attendance is sought. A subpoena may be served in this manner only if the officer is currently employed as a peace officer and is present within the state at the time of service.

(c) When a subpoena has been served as provided in paragraph (b) of this subsection, the law enforcement agency shall make a good faith effort to give actual notice to the officer whose attendance is sought of the date, time and location of the court appearance. If the officer cannot be notified, the law enforcement agency shall promptly notify the court and a postponement or continuance may be granted to allow the officer to be personally served.

(d) As used in this subsection, "law enforcement agency" means the Oregon State Police, a county sheriff's department, a municipal police department or a police department established by a university under ORS 352.383.

(3) Under the following circumstances, service of a subpoena to a witness by mail has the same legal force and effect as personal service:

(a) The attorney mailing the subpoena certifies in connection with or upon the return of service that the attorney, or the attorney's agent, has had personal or telephone contact with the witness and the witness indicated a willingness to appear at trial if subpoenaed; or

(b) The subpoena was mailed to the witness more than five days before trial by certified mail or some other designation of mail that provides a receipt for the mail signed by the recipient and the attorney received a return receipt signed by the witness prior to trial.

(4) Service of subpoena by mail may be used for a subpoena commanding production of books, papers, documents or other tangible things that is not accompanied by a command to appear at trial or hearing or at a deposition under ORS 419B.884.

(5) Proof of service of a subpoena is made in the same manner as proof of service of a summons except that the server is not required to certify that the server is not a party in the action or an attorney for a party in the action.

419B.905 Subpoena of incarcerated witness. If a witness is confined in a prison or jail in this state, a subpoena may be served on the witness and attendance of the witness may be compelled. The subpoena and court order must be served upon the custodian of the witness. The court may order:

(1) Temporary removal and production of the witness for the purpose of giving testimony;

(2) That the witness be allowed to testify by telephone or closed-circuit television; or

(3) That the testimony of the witness be taken by deposition under ORS 419B.884 at the place of confinement. [2001 c.622 §29]

419B.908 Witness fees; payment. Witnesses subpoenaed to give testimony shall receive the same fees as are paid in criminal cases. Except as provided by this section, responsibility for the per diem and mileage fees

of any witness, and travel expenses if so ordered by the court, shall be borne by the party who subpoenas the witness or requests the court to subpoena the witness. If the witness was subpoenaed by more than one party, the witness shall be paid by the party who first subpoenas the witness. The court may then, thereafter, order that the costs be distributed equally among all parties who subpoenaed the witness and that the original payor of the costs be reimbursed accordingly. When the witness has been subpoenaed on behalf of a party who is represented by appointed counsel, the fees and costs allowed for that witness shall be paid pursuant to ORS 135.055. [Formerly 419B.320]

419B.911 Failure to obey subpoena. Disobedience to a subpoena or a refusal to be sworn or answer as a witness is punishable as contempt by the court before whom the action is pending or by the judge or justice issuing the subpoena. [2001 c.622 §30]

419B.914 Proceeding when person entitled to service is not summoned and is not before court. If the child or ward is before the court, the court has the power to proceed with the case without service upon those entitled to service under ORS 419B.812 to 419B.839 if diligent efforts have failed to reveal the identity or the whereabouts of the person, except that:

(1) No order entered pursuant to ORS 419B.500, 419B.502, 419B.504, 419B.506 and 419B.508 may be entered unless ORS 419B.518, 419B.521, 419B.524 and 419B.812 to 419B.839 are complied with.

(2) No order for support as provided in ORS 419B.400, 419B.402, 419B.404 and 419B.406 may be entered against a person unless that person is served as provided in ORS 419B.812 to 419B.839. [Formerly 419B.285; 2003 c.396 §95]

419B.917 [2001 c.622 §31; repealed by 2003 c.205 §12 (419B.918 enacted in lieu of 419B.917)]

419B.918 Manner of appearance. (1) Notwithstanding ORS 419B.815, 419B.816, 419B.819 and 419B.820, on timely written motion of a person showing good cause, a court may permit the person, instead of appearing personally, to participate in any hearing related to a petition alleging jurisdiction under ORS 419B.100, a petition to establish a permanent guardianship under ORS 419B.365 or a petition seeking termination of parental rights under ORS 419B.500, 419B.502, 419B.504, 419B.506 or 419B.508 in any manner that complies with the requirements of due process including, but not limited to, telephonic or other electronic means.

(2) If a person who is summoned or ordered to appear under ORS 419B.815, 419B.816, 419B.819 or 419B.820 seeks to reschedule any hearing at which the person is required to appear, the person must:

(a) Appear personally at the time specified in the summons or order to request the change; or

(b) Include in the person's written motion requesting the change the person's current mailing address, to which the court may send notice of the new date for the hearing if the motion is granted.

(3) In any proceeding that involves the interstate placement of a child or ward, the court may:

(a) Permit a party from outside this state to provide information, testify or otherwise participate in the proceeding in any manner the court designates, provided the party complies with subsection (1) of this section, if applicable;

(b) Permit an attorney from outside this state representing any party to participate in the proceeding in any manner the court designates; and

(c) Obtain information or testimony in any manner the court designates from a state or private agency located in another state. [2003 c.205 §13 (enacted in lieu of 419B.917); 2007 c.497 §9; 2007 c.611 §10]

419B.920 New hearings. If it appears to the court that a person required to be summoned under ORS 419B.812 to 419B.839 was not served as required by ORS 419B.812 to 419B.839 or was served on such short notice that the person did not have a reasonable opportunity to appear at the time fixed, upon motion of the person, the court shall reopen the case for full consideration. A motion for a new hearing must be made not later than 10 days after entry of the order for which a new hearing is sought. [2001 c.622 §32]

419B.923 Modifying or setting aside order or judgment. (1) Except as otherwise provided in this section, on motion and such notice and hearing as the court may direct, the court may modify or set aside any order or judgment made by it. Reasons for modifying or setting aside an order or judgment include, but are not limited to:

(a) Clerical mistakes in judgments, orders or other parts of the record and errors in the order or judgment arising from oversight or omission. These mistakes and errors may be corrected by the court at any time on its own motion or on the motion of a party and after notice as the court orders to all parties who have appeared. During the pendency of an appeal, an order or judgment may be corrected as provided in subsection (7) of this section.

(b) Excusable neglect.

(c) Newly discovered evidence that by due diligence could not have been discovered in time to present it at the hearing from which the order or judgment issued.

(2) A motion to modify or set aside an order or judgment or request a new hearing must be accompanied by an affidavit that states with reasonable particularity the facts and legal basis for the motion.

(3) A motion to modify or set aside an order or judgment must be made within a reasonable time except no order or judgment pursuant to ORS 419B.527 may be set aside or modified during the pendency of a proceeding for the adoption of the ward, nor after a petition for adoption has been granted.

(4) Except as provided in subsection (6) of this section, notice and a hearing as provided in ORS 419B.195, 419B.198, 419B.201, 419B.205, 419B.208, 419B.310, 419B.325 and 419B.893 must be provided in any case when the effect of modifying or setting aside the order or judgment will or may be to deprive a parent of the legal custody of the child or ward, to place the child or ward in an institution or agency or to transfer the child or ward from one institution or agency to another. The provisions of this subsection do not apply to a parent whose rights have been terminated under ORS 419B.500 to 419B.524 or whose child has been permanently committed by order or judgment of the court unless an appeal from the order or judgment is pending.

(5) When an Indian child is involved, notice must be provided as required under the Indian Child Welfare Act.

(6) Except when the child or ward is an Indian child, notice and a hearing are not required when the effect of modifying or setting aside the order or judgment will be to transfer the child or ward from one foster home to another.

(7) A motion under subsection (1) of this section may be filed with and decided by the trial court during the time an appeal from a judgment is pending before an appellate court. The moving party shall serve a copy of the motion on the appellate court. The moving party shall file a copy of the trial court's order or judgment in the appellate court within seven days of the date of the trial court order or judgment. Any necessary modification of the appeal required by the court order or judgment must be pursuant to rule of the appellate court.

(8) This section does not limit the inherent power of a court to modify an order or judgment within a reasonable time or the power of a court to set aside an order or judgment for fraud upon the court. [2001 c.622 §33; 2003 c.396 §97]

419B.926 Stay of order or judgment pending appeal. (1) On its own motion or on the motion of a party, the court may stay the effect of any order or judgment made by it pending appeal as provided in ORS 19.335, 19.340 and 19.350 or other provision of law.

(2) This section does not limit the right of a party to a stay otherwise provided for by law. [2001 c.622 §34]

419B.929 Enforcement of certain orders and judgments. A court may enforce an order or judgment directing a party to perform a specific act by punishing the party refusing or neglecting to comply with the order or judgment, as for a contempt as provided in ORS 33.015 to 33.155. [2001 c.622 §35]

MISCELLANEOUS

419B.950 Educational program regarding federal and state adoption and child welfare laws; establishment; purpose. The State Court Administrator shall establish a statewide program to educate judges who hear dependency cases under ORS chapter 419B about federal and state adoption and child welfare laws. The program shall include continuing legal education concerning changes in federal and state laws. The purpose of the program is to ensure that judges are knowledgeable about current adoption and child welfare laws, so that they may make decisions as to the best interests of a child. To that end, the State Court Administrator shall:

(1) Establish a program administering continuing legal education for judges who hear dependency cases under ORS chapter 419B.

(2) Conduct seminars for judges who hear dependency cases under ORS chapter 419B.

(3) Identify family law resources in the public and private sectors to administer continuing legal education on current adoption and child welfare laws. [1997 c.593 §1]

Note: 419B.950 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 419B or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.