CHAPTER 795

AN ACT SB 741

Relating to placement of children; creating new provisions; amending ORS 109.309, 419A.004, 419B.090, 419B.349, 419B.395, 419B.440, 419B.443, 419B.446, 419B.449 and 419B.470; and declaring an emergency.

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

SECTION 1. ORS 419B.090 is amended to read:

419B.090. (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*] **and to safeguard and promote each** child's relationships with parents, siblings, grandparents**,** [*and*] other relatives **and adults with whom a child develops healthy emotional attachments**.

(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.

SECTION 2. ORS 419A.004 is amended to read:

419A.004. As used in this chapter and ORS chapters 419B and 419C, unless the context requires otherwise:

(1) "CASA Volunteer Program" means a program that is approved or sanctioned by a juvenile court, has received accreditation from the National CASA Association and has entered into a contract with the Oregon Volunteers Commission for Voluntary Action and Service under ORS 458.581 to recruit, train and supervise volunteers to serve as court appointed special advocates.

(2) "Child care center" means a residential facility for wards or youth offenders that is licensed under the provisions of ORS 418.240.

(3) "Community service" has the meaning given that term in ORS 137.126.

(4) "Conflict of interest" means a person appointed to a local citizen review board who has a personal or pecuniary interest in a case being reviewed by that board.

(5) "Counselor" means a juvenile department counselor or a county juvenile probation officer.

(6) "Court" means the juvenile court.

(7) "Court appointed special advocate" means a person in a CASA Volunteer Program who is appointed by the court to act as a court appointed special advocate pursuant to ORS 419B.112.

(8) "Court facility" has the meaning given that term in ORS 166.360.

(9) "Current caretaker" means a foster parent who:

(a) Is currently caring for a ward who is in the legal custody of the Department of Human Services and who has a permanency plan or concurrent permanent plan of adoption; and

(b) Who has cared for the ward, or at least one sibling of the ward, for at least the imme-

diately prior 12 consecutive months or for one-half of the ward's or sibling's life where the ward or sibling is younger than two years of age.

[*(9)*] **(10)** "Department" means the Department of Human Services.

[*(10)*] **(11)** "Detention" or "detention facility" means a facility established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063 for the detention of children, wards, youths or youth offenders pursuant to a judicial commitment or order.

[*(11)*] **(12)** "Director" means the director of a juvenile department established under ORS 419A.010 to 419A.020 and 419A.050 to 419A.063.

[*(12)*] **(13)** "Guardian" means guardian of the person and not guardian of the estate.

[*(13)*] **(14)** "Indian child" means any unmarried person less than 18 years of age who is:

(a) A member of an Indian tribe; or

(b) Eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe.

[*(14)*] **(15)** "Juvenile court" means the court having jurisdiction of juvenile matters in the several counties of this state.

[*(15)*] **(16)** "Local citizen review board" means the board specified by ORS 419A.090 and 419A.092.

[*(16)*] **(17)** "Parent" means the biological or adoptive mother and the legal father of the child, ward, youth or youth offender. As used in this subsection, "legal father" means:

(a) A man who has adopted the child, ward, youth or youth offender or whose paternity has been established or declared under ORS 109.070 or 416.400 to 416.465 or by a juvenile court; and

(b) In cases in which the Indian Child Welfare Act applies, a man who is a father under applicable tribal law.

[*(17)*] **(18)** "Permanent foster care" means an out-of-home placement in which there is a long-term contractual foster care agreement between the foster parents and the department that is approved by the juvenile court and in which the foster parents commit to raise a ward in substitute care or youth offender until the age of majority.

[*(18)*] **(19)** "Planned permanent living arrangement" means an out-of-home placement other than by adoption, placement with a relative or placement with a legal guardian that is consistent with the case plan and in the best interests of the ward.

[*(19)*] **(20)** "Public building" has the meaning given that term in ORS 166.360.

[*(20)*] **(21)** "Reasonable time" means a period of time that is reasonable given a child or ward's emotional and developmental needs and ability to form and maintain lasting attachments.

[*(21)*] **(22)** "Records" means any information in written form, pictures, photographs, charts, graphs, recordings or documents pertaining to a case.

[*(22)*] **(23)** "Resides" or "residence," when used in reference to the residence of a child, ward, youth or youth offender, means the place where the child, ward, youth or youth offender is actually living or the jurisdiction in which wardship or jurisdiction has been established.

[*(23)*] **(24)** "Restitution" has the meaning given that term in ORS 137.103.

[*(24)*] **(25)** "Serious physical injury" means:

(a) A serious physical injury as defined in ORS 161.015; or

(b) A physical injury that:

(A) Has a permanent or protracted significant effect on a child's daily activities;

(B) Results in substantial and recurring pain; or

(C) In the case of a child under 10 years of age, is a broken bone.

[*(25)*] **(26)** "Shelter care" means a home or other facility suitable for the safekeeping of a child, ward, youth or youth offender who is taken into temporary custody pending investigation and disposition.

[*(26)*] **(27)** "Short-term detention facility" means a facility established under ORS 419A.050 (3) for holding children, youths and youth offenders pending further placement.

[*(27)*] **(28)** "Sibling" means one of two or more children or wards related:

(a) By blood or adoption through a common legal parent; or

(b) Through the marriage of the children's or wards' legal or biological parents.

[*(28)*] **(29)** "Substitute care" means an out-of-home placement directly supervised by the department or other agency, including placement in a foster family home, group home or other child caring institution or facility. "Substitute care" does not include care in:

(a) A detention facility, forestry camp or youth correction facility;

(b) A family home that the court has approved as a ward's permanent placement, when a private child caring agency has been appointed guardian of the ward and when the ward's care is entirely privately financed; or

(c) In-home placement subject to conditions or limitations.

[*(29)*] **(30)** "Surrogate" means a person appointed by the court to protect the right of the child, ward, youth or youth offender to receive procedural safeguards with respect to the provision of free appropriate public education.

[*(30)*] **(31)** "Tribal court" means a court with jurisdiction over child custody proceedings and that is either a Court of Indian Offenses, a court established and operated under the code of custom of an Indian tribe or any other administrative body of a tribe that is vested with authority over child custody proceedings.

[*(31)*] **(32)** "Victim" means any person determined by the district attorney, the juvenile department or the court to have suffered direct financial, psychological or physical harm as a result of the act that has brought the youth or youth offender before the juvenile court. When the victim is a minor, "victim" includes the legal guardian of the minor. The youth or youth offender may not be considered the victim. When the victim of the crime cannot be

determined, the people of Oregon, as represented by the district attorney, are considered the victims.

[*(32)*] **(33)** "Violent felony" means any offense that, if committed by an adult, would constitute a felony and:

(a) Involves actual or threatened serious physical injury to a victim; or

(b) Is a sexual offense. As used in this paragraph, "sexual offense" has the meaning given the term "sex crime" in ORS 181.805.

[*(33)*] **(34)** "Ward" means a person within the jurisdiction of the juvenile court under ORS 419B.100.

[*(34)*] **(35)** "Young person" means a person who has been found responsible except for insanity under ORS 419C.411 and placed under the jurisdiction of the Psychiatric Security Review Board.

[*(35)*] **(36)** "Youth" means a person under 18 years of age who is alleged to have committed an act that is a violation, or, if done by an adult would constitute a violation, of a law or ordinance of the United States or a state, county or city.

[*(36)*] **(37)** "Youth care center" has the meaning given that term in ORS 420.855.

[*(37)*] **(38)** "Youth offender" means a person who has been found to be within the jurisdiction of the juvenile court under ORS 419C.005 for an act committed when the person was under 18 years of age.

SECTION 3. ORS 419B.395 is amended to read:

419B.395. (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)*] **(17)**.

SECTION 4. ORS 109.309 is amended to read:

109.309. (1) Any person may petition the circuit court for leave to adopt another person and, if desired, for a change of the other person's name.

(2) One petitioner, the child, one parent or the person, who is not an adoption agency, consenting to the adoption as required under ORS 109.321 (1) must be a resident of this state. As used in this subsection, "resident" means a person who has resided in this state continuously for a period of six months prior to the date of the petition.

(3) Except as provided in subsection (4) of this section, when the petition is for the adoption of a minor child, the adoption is governed by the Uniform Child Custody Jurisdiction and Enforcement Act, ORS 109.701 to 109.834.

(4)(a) Notwithstanding ORS 109.741 and 109.744, a court of this state has jurisdiction over the adoption of a minor child if, immediately prior to the filing of a petition for adoption:

(A) The minor child resided in this state for at least six consecutive months including periods of temporary absence;

(B) One parent or another person, who is not an adoption agency, consenting to the adoption as required under ORS 109.321 (1) resided in this state for at least six consecutive months including periods of temporary absence;

(C) The prospective adoptive parent resided in this state for at least six consecutive months including periods of temporary absence and substantial evidence is available in this state concerning the present or future care of the minor child;

(D) It appears that no court of another state would have jurisdiction under circumstances substantially in accordance with subparagraphs (A) to (C) of this paragraph; or

(E) A court of another state has declined to exercise jurisdiction on the grounds that this state is a more appropriate forum to hear a petition for adoption of the minor child and it is in the best interests of the minor child that a court of this state assume jurisdiction.

(b) As used in paragraph (a) of this subsection, "periods of temporary absence" means periods of absence of not more than a total of 30 days in the prior six consecutive months.

(5) In a petition to adopt a minor child, venue lies in the Oregon county with which the child has the most significant connection or in the Oregon county in which the licensed adoption agency is located.

(6) A petition for adoption of a minor child must comply with the requirements, and be served in the manner, described in ORS 109.315.

(7)(a) In a proceeding for the adoption of a minor child, a current home study must be approved by either the Department of Human Services or an Oregon licensed adoption agency for the purpose of demonstrating that the petitioner meets the minimum standards for adoptive homes as set forth in the department's administrative rules.

(b) The department, upon request by the petitioner, may waive the home study requirement in an adoption proceeding in which one of the child's biological parents or adoptive parents retains parental rights, or when a relative who qualifies under the department's administrative rules for a waiver of the home study requirement is the prospective adoptive parent.

(c) The department shall**, subject to section 5 of this 2015 Act,** adopt rules to implement the provisions of this subsection.

(8)(a) Within 90 days after service upon the Director of Human Services as required under ORS 109.315, the Department of Human Services shall investigate and file for the consideration of the judge before whom the petition for adoption is pending a placement report containing information regarding the status of the child and evidence concerning the suitability of the proposed adoption. The department may designate an Oregon licensed adoption agency to investigate and report to the court. If the department designates an Oregon licensed adoption agency to investigate and report to the court, the department shall make the designation and provide all necessary information and materials to the Oregon licensed adoption agency no later than 30 days after the service on the director and upon receipt of all required documentation and fees. The department may waive the placement report requirement under this subsection but shall waive the placement report requirement in an adoption proceeding in which one of the child's biological parents or adoptive parents retains parental rights.

(b) Upon receipt of a written request by the petitioner or the petitioner's attorney, the department shall furnish to the petitioner or the petitioner's attorney copies of any information that the department has filed with the court.

(c) Information gathered by the department or by an Oregon licensed adoption agency during the preparation of the placement report may include information concerning the child's social, medical and genetic history and the birth parent's history as may be required by ORS 109.321 or 109.342.

(d) The department shall**, subject to section 5 of this 2015 Act,** adopt rules to implement the provisions of this subsection.

(9) The department may charge the petitioner a fee for investigating a proposed nonagency adoption and preparing the home study required under subsection (7) of this section and the placement report required under subsection (8) of this section. The petitioner shall report the fee amount to the court. The court granting the adoption shall make a finding as to whether the fee is necessary and reasonable. Any fee charged may not exceed reasonable costs for investigation, home study and placement report preparation. The department shall prescribe by rule the procedure for computing the investigation, home study and placement report preparation fee. The rules shall provide a waiver of either part or all of the fee based upon the petitioner's ability to pay.

(10) The court may not rule upon a petition for the adoption of a minor child until at least 90 days after the date that the petition and documents required to be served on the Director of Human Services under ORS 109.315 and 109.317 have been served upon the director. The department may waive the 90-day waiting period.

(11) The amounts of any fees collected under subsection (9) of this section are continuously appropriated to the department for use in preparing home studies and placement reports required under this section.

(12)(a) Except as provided in paragraph (b) of this subsection, a court may not grant a judgment for the adoption of a minor child unless the petitioner has filed with the court:

(A) A petition, including exhibits attached to the petition, meeting the requirements of ORS 109.315;

(B) Written evidence that a home study has been completed and approved, unless waived, under subsection (7) of this section;

(C) A placement report under subsection (8) of this section unless waived; and

(D) The Adoption Summary and Segregated Information Statement under ORS 109.317, including exhibits attached to the statement.

(b) A person is not required to file a home study or a placement report with the court when the department has granted the person a waiver under department rules.

(13) The adoption shall comply with the Indian Child Welfare Act (25 U.S.C. 1901 et seq.), if applicable.

SECTION 5. (1) Rules adopted by the Department of Human Services for home studies and placement reports under ORS 109.309 (7) and (8) must, at a minimum, require the department to:

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

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

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

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

SECTION 6. ORS 419B.349 is amended to read:

419B.349. **(1)** 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 **or proposed placement** of a child or ward made **or to be made** by the department the court determines that the placement **or proposed placement** is not in the best interest of the child or ward, the court may direct the department to place **or maintain** 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 a foster care provider who is or has been a current caretaker for the child,** in foster care with [*another*] **a** foster care provider **who is not a relative or current caretaker**, 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*] **subsection** affects any contractual right of **an individual or** a private agency to refuse or terminate a placement.

(2) The court may not exercise its discretion to direct the department to place or maintain a child or ward where the effect of the direction will be to remove the child or ward from, or prevent the placement of the child or ward with, a person described in ORS 419B.440 (2)(c).

SECTION 7. ORS 419B.440 is amended to read:

419B.440. **(1)** 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)*] **(a)** 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)*] **(b)(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)*] **(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)*] **(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.

(c) When the agency has removed or plans to remove a child or ward from a foster home as defined in ORS 418.625 that is certified under ORS 418.635 and the removal is for the purpose of placing the child or ward in a different substitute care placement, if:

(A) The child or ward has resided for 12 consecutive months or more in the foster home; or

(B) The child or ward resides or resided in the foster home pursuant to a permanent foster care agreement.

(2) An agency is not required to file a report under subsection (1)(c) of this section when:

(a) The removal of the child or ward was made following a founded allegation of abuse or neglect by the child's or ward's foster care provider;

(b) The removal was made to address an imminent threat to the health or safety of the child or ward pending completion of an investigation of reported abuse or neglect by the child's or ward's foster care provider;

(c) The agency has placed the child or ward with a person who has been selected by the department to be the adoptive parent, when the selection has become final after the expiration of any administrative or judicial review procedures under ORS chapter 183; or

(d) The removal was made at the request of the foster care provider.

SECTION 8. ORS 419B.443 is amended to read:

419B.443. (1) An agency described in ORS 419B.440 shall file the reports required by ORS 419B.440 [*(2)*] **(1)(b)** 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)*] **(1)(a)** 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)*] **(1)(b)(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.

SECTION 9. ORS 419B.446 is amended to read:

419B.446. (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)*] **(1)(b)(C)** on wards in the legal custody of the Department of Human Services shall be filed with the court.

SECTION 10. ORS 419B.449 is amended to read:

419B.449. (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)*] **(1)(b)(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)*] **(1)(a)** 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).*] **(1)(b)(C); or**

(e) Within 10 days after receipt of a report made under ORS 419B.440 (1)(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.

SECTION 11. ORS 419B.470 is amended to read:

419B.470. (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)*] **(1)(b)(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.

SECTION 12. (1) Section 5 of this 2015 Act and the amendments to ORS 109.309, 419A.004, 419B.090 and 419B.395 by sections 1 to 4 of this 2015 Act apply to:

(a) Children and wards who are in the legal custody of the Department of Human Services before, on or after the operative date specified in section 13 (1) of this 2015 Act; and

(b) Children and wards for whom placement decisions are made on or after the operative date specified in section 13 (1) of this 2015 Act.

(2) The amendments to ORS 419B.349, 419B.440, 419B.443, 419B.446, 419B.449 and 419B.470 by sections 6 to 11 of this 2015 Act apply to reports on children and wards for whom placement decisions are made on or after the

operative date specified in section 13 (2) of this 2015 Act.

SECTION 13. (1) Section 5 of this 2015 Act and the amendments to ORS 109.309, 419A.004, 419B.090 and 419B.395 by sections 1 to 4 of this 2015 Act become operative on September 1, 2015.

(2) The amendments to ORS 419B.349, 419B.440, 419B.443, 419B.446, 419B.449 and 419B.470 by sections 6 to 11 of this 2015 Act become operative on January 1, 2016.

(3) The Department of Human Services may take any action before the operative dates specified in subsections (1) and (2) of this section that is necessary for the department to exercise, on and after the operative dates specified in subsections (1) and (2) of this section, all of the duties, functions and powers conferred on the department by section 5 of this 2015 Act and the amendments to ORS 109.309, 419A.004, 419B.090, 419B.349, 419B.395, 419B.440, 419B.443, 419B.446, 419B.449 and 419B.470 by sections 1 to 4 and 6 to 11 of this 2015 Act.

SECTION 14. This 2015 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect on its passage.

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