

House Bill 3573

Introduced and printed pursuant to House Rule 13.01 (at the request of Mark Kramer)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Provides that person who has established ongoing personal relationship with child may file motion for intervention with court having jurisdiction over custody, placement, guardianship or wardship of child.

A BILL FOR AN ACT

1
2 Relating to children; amending ORS 109.119.

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

4 **SECTION 1.** ORS 109.119 is amended to read:

5 109.119. (1) Any person including but not limited to a foster parent, stepparent, grandparent or
6 relative by blood or marriage who has established emotional ties creating a child-parent relationship
7 with a child may petition or file a motion for intervention with the court having jurisdiction over
8 the custody, placement, guardianship or wardship of that child, or if no such proceedings are pend-
9 ing, may petition the court for the county in which the minor child resides for an order providing
10 for custody or placement of the child or visitation rights or other generally recognized rights of a
11 parent or person in loco parentis. If the court determines that custody, guardianship, right of
12 visitation, or other generally recognized right of a parent or person in loco parentis, is appropriate
13 in the case, the court shall grant such custody, guardianship, right of visitation or other right to the
14 person having the child-parent relationship, if to do so is in the best interest of the child. The court
15 may determine temporary custody of the child under this section pending a final order.

16 (2) In addition to the rights granted under subsection (1) of this section, a stepparent with a
17 child-parent relationship, as defined in subsection (4) of this section, who is a party in a dissolution
18 proceeding may petition the court having jurisdiction for custody or visitation or may petition the
19 court for the county in which the minor child resides for adoption of the child. The stepparent may
20 also file for post decree modification of a decree relating to child custody.

21 (3) A motion for intervention may be denied or a petition may be dismissed on the motion of any
22 party or on the court's own motion if the petition does not state a prima facie case of emotional ties
23 creating a child-parent relationship or an ongoing personal relationship or does not allege facts
24 that the intervention is in the best interests of the child.

25 (4) As used in this section "child-parent relationship" means a relationship that exists or did
26 exist, in whole or in part, within the six months preceding the filing of an action under this section,
27 and in which relationship a person having physical custody of a child or residing in the same
28 household as the child supplied, or otherwise made available to the child, food, clothing, shelter and
29 incidental necessities and provided the child with necessary care, education and discipline, and
30 which relationship continued on a day-to-day basis, through interaction, companionship, interplay
31 and mutuality, that fulfilled the child's psychological needs for a parent as well as the child's phys-
32 ical needs. However, a relationship between a child and a person who is the foster parent of the

NOTE: Matter in boldfaced type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in boldfaced type.

Senate Bill 465

Sponsored by COMMITTEE ON JUDICIARY (at the request of Juvenile Rights Project)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure as introduced.

Declares state policy that child is not chattel of parent or guardian. Declares that primary goal of juvenile code is to insure child's safety in stable home.

Declares that while there is strong preference that child live with own family, that may not always be possible or in best interests of child or general public.

A BILL FOR AN ACT

1
2 Relating to policy of state regarding children in the juvenile court system; amending ORS 419.474.

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

4 **SECTION 1.** ORS 419.474 is amended to read:

5 **419.474. (1) It is the policy of the State of Oregon that a child is not a chattel of a parent**
6 **or guardian but is an individual with legal rights. In order to protect the constitutional rights**
7 **of a child as a child interacts with the juvenile court system, the court shall liberally con-**
8 **strue the provisions of ORS 419.472 to 419.597 and 419.800 to 419.839. It is the policy of the**
9 **State of Oregon that the primary goal of the juvenile code is to insure a child's safety in a**
10 **stable home where a child will receive the guidance and nurturing necessary to safeguard a**
11 **child's welfare and allow a child to fulfill a child's individual capabilities. Although there is**
12 **a strong preference that a child live with a child's family, the juvenile code recognizes that**
13 **this is not always possible or in the best interests of a child or the public.**

14 ***[(1)]*** (2) The juvenile court is a court of record and exercises jurisdiction as a court of general
15 and equitable jurisdiction and not as a court of limited or inferior jurisdiction. It is called "The
16 _____ Court of _____ County, Juvenile Department."

17 ***[(2)]*** *The provisions of ORS 419.472 to 419.597, 419.800 to 419.839 shall be liberally construed to*
18 *the end that a child coming within the jurisdiction of the court may receive such care, guidance and*
19 *control, preferably in the child's own home, as will lead to the child's welfare and the best interest of*
20 *the public, and that when a child is removed from the control of the parents of the child the court may*
21 *secure for the child care that best meets the needs of the child.]*

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NOTE: Matter in boldfaced type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in boldfaced type.

1 child is not a child-parent relationship under this section unless the relationship continued over a
2 period exceeding three years.

3 (5) Notwithstanding subsection (1) of this section, a person who has maintained an ongoing
4 personal relationship with substantial continuity for at least one year, through interaction,
5 companionship, interplay and mutuality may petition or file a motion for intervention with the
6 court having jurisdiction over the custody, placement, guardianship or wardship of that child, or if
7 no such proceedings are pending, may petition the court for the county in which the minor child
8 resides, for an order providing for reasonable visitation rights. If the court determines from clear
9 and convincing evidence that visitation is in the best interests of the child and is otherwise appro-
10 priate in the case, the court shall grant visitation to the person having the relationship described
11 in this subsection.

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