

Juvenile Code Revision Work Group:

INTERVENOR CLEANUP

**SB 229
(LC 190)**

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I. Introductory Summary

This proposed bill cleans up 3 small items missed in SB 72 (2003) that was submitted by the Juvenile Code Revision Work Group's Intervention Sub-Work Group last session.

II. History of the Project

SB 72 (2003) resolved inconsistencies in ORS 419B.116 and ORS 109.119. One of the objectives of the 2003 bill was to clarify that ORS 419B.116 is the only statute governing the process for intervening in a juvenile dependency proceeding to become a party. Persons asserting that they have a "caregiver relationship" with a child who is the subject of the juvenile dependency proceeding may file a motion for intervention in the proceeding under that statute. ORS 419B.116(1) defines "caregiver relationship."¹ The

¹ORS 419B.116 provides in relevant part:

"(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) During the year 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.

bill deleted provisions in ORS 109.119 that also allowed a court to grant or deny a motion for intervention as that provision conflicted with ORS 419B.116.

III. Statement of the Problem Area and Solution

A cross-reference in ORS 419B.192 to ORS 119.119 was missed in SB 72 (2003); thus, presently ORS 419B.192 references the repealed provision. The correct reference is to ORS 419B.116 and the correct term is “caregiver relationship.” See Section 1 of LC 190.

In addition, ORS 419B.116(1), the provision defining “caregiver relationship” requires clarification in (A)(i). See Section 2 of LC 190. The intent of the definition of “caregiver relationship” was to capture those persons who have a meaningful relationship with a child that should be given party status in a dependency case. Persons who have had a relationship for a very short amount of time were never intended to be included. Substituting “For the 12 months immediately” for “During the year” makes it clear that a relationship for a full 12 months is necessary, and not a shorter period, to fall under subsection (1)(A)(i).

IV. Conclusion

This bill is a technical clean-up bill. The amendments to the Juvenile Code made by this bill come with the support of the Commission’s Juvenile Code Revision Work Group, chaired by Sen. Kate Brown.

V. Amendment Note

This bill was amended in the Senate to add Section 4 of the bill. The amendment provides that the court may not substitute appointed counsel in termination of parental rights proceedings except pursuant to Public Defense Services Commission (PDSC) guidelines. This was an amendment requested by PDSC that was also a clean-up item that fit within the relating clause of the bill.

(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 exceeding 12 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.