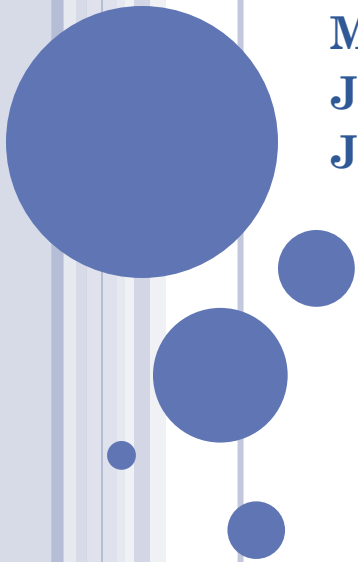


SENATE BILL 741: CURRENT CARETAKER

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January 6, 2016**



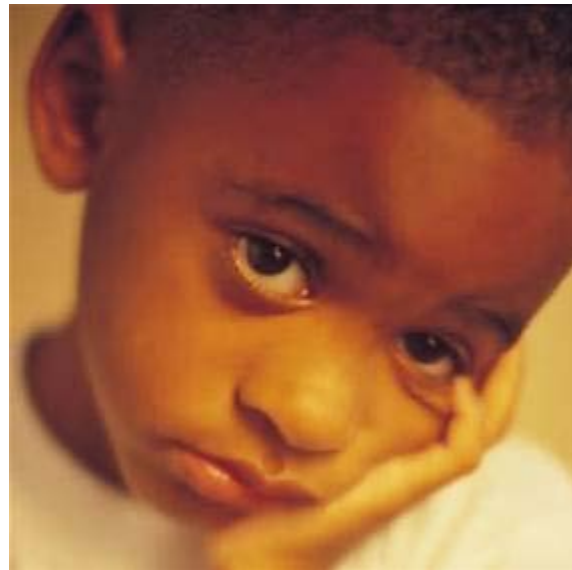
OVERVIEW

- Background
- State policy
- “Current Caretaker” defined
- Report to court
- 10 day hearing
- Review requirements
- Orders regarding placement
- DHS evaluation of prospective adoptive parents
- Overlap with caregiver relationships (ORS 419B.116)
- Best practices



BACKGROUND

- Relatives who have had little contact with foster child given preference over foster parent in adoption selection decisions
- Attachment needs of children ignored



BACKGROUND

- Court authority to review placement.
 - Prior to January 1, 2016, when the child was committed to the legal custody of DHS, ORS 419B.349 provided the court with the ability to review the child's placement, and if the court found the placement was not in the child's best interest, direct DHS to place the child in the care of parents, relatives, non-relatives, residential care, group care, or some other type of residential placement.
 - SB 741 expands the court's authority to place the child with a current caretaker.



SB 741: OVERVIEW

- Creates new category of foster parent: a current caretaker
- Allows court to direct placement with a current caretaker pursuant to the provisions of ORS 419B.349
- Requires DHS to consider prospective adoptive parents on basis of ability to meet the individual needs of the child for safety, attachment and well-being; relatives and current caretakers equal status.



REVISED STATE POLICY

○ Juvenile court policy:

- It is the policy of the State of Oregon to safeguard and promote each child's right to safety, stability and well being, and to safeguard and promote each child's relationships with parents, siblings, grandparents, other relatives *and adults with whom a child develops healthy emotional attachments.*

ORS 419B.090(3)



“CURRENT CARETAKER” DEFINED

- A foster parent who:
 - Is currently caring for a ward in the legal custody of DHS who has a permanency plan, or concurrent plan of adoption; ***and***
 - Who has cared for the ward, ***or at least one sibling of the ward***, for at least the immediately 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.

ORS 419A.004(11)



CURRENT CARETAKER DEFINED

Foster parent currently caring for ward
+permanency plan or concurrent plan of adoption

+ cared for ward *or* sibling for:

➔ immediately prior 12 consecutive months, *or*

➔ one-half of the ward's or sibling's life (ward or sibling under age 2)

❖ **How many current caretakers can a child have?**



REPORT TO COURT

- When required: (ORS 419B.440(1)(c))
 - DHS ***removes or plans to remove*** a child or ward for purposes of placing in a different substitute care placement if:
 - The child or ward *has resided for 12 consecutive months* or more in the foster home; or
 - The child or ward resides or resided in the foster home pursuant to a *permanent foster care agreement*
 - Exceptions: (ORS 419B.440(2))
 - Removal is foster parent related:
 - founded allegation of abuse or neglect;
 - imminent threat to the health or safety of the child or ward pending completion of an investigation of reported abuse or neglect;
 - Removal at foster parent's request.
 - Adoptive placement is final. DHS placed the child with the selected adoptive parent, when the selection has become final after the expiration of administrative or judicial review procedures under ORS chapter 183.



REPORT TO COURT

- No required form.
- DHS plans to use [Uniform DHS Court Report](#).

REPORT TO THE [Choose county] COUNTY
 CIRCUIT COURT CITIZEN REVIEW BOARD

DHS branch office: [Select office] Bundle #: _____

In the matter of: _____

Child's name:				
DOB:				
JDIS:				
Petition:				
CASA:				
Tribe:				Add 4-6
File Status:				Remove 4-6

Exhibit: _____

FROM THE DEPARTMENT OF HUMAN SERVICES (CHILD WELFARE)
UNIFORM DHS REPORT FORM - ALL HEARING FORMAT
SUBMIT TO COURT ELECTRONICALLY IN ADOBE ACROBAT (PDF) FORMAT

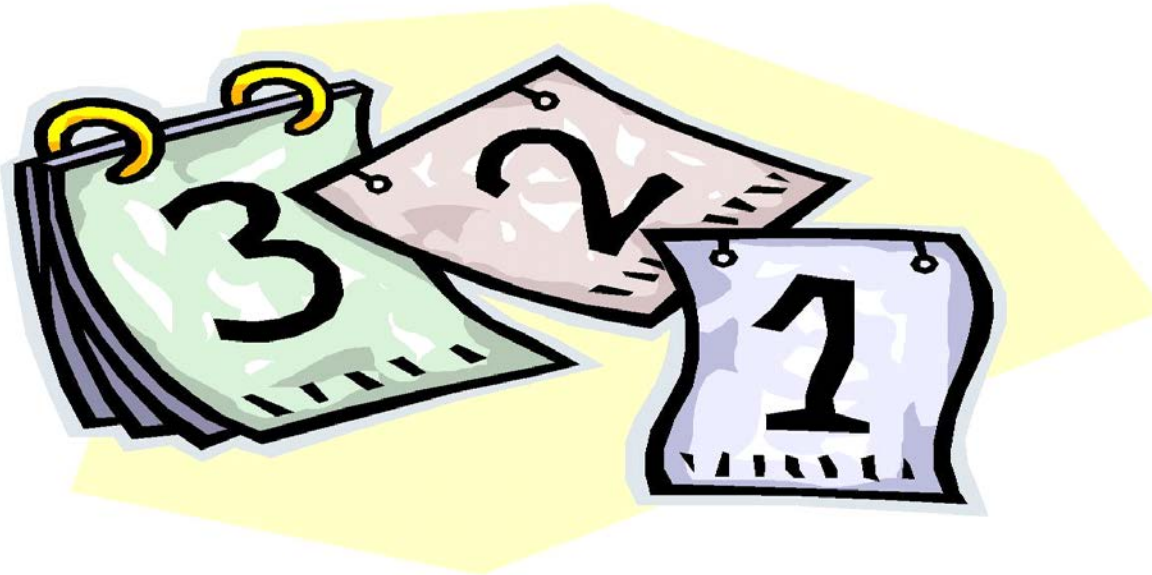
This report is submitted for the following type of hearing:

<input type="checkbox"/> Permanency Hearing - Annual Review/date: _____
<input type="checkbox"/> Permanency Hearing - other than Annual Review/date: _____
<input type="checkbox"/> Review Hearing/date: _____
<input type="checkbox"/> Voluntary Placement/Custody Review/date: _____
<input type="checkbox"/> CRB Review/date: _____



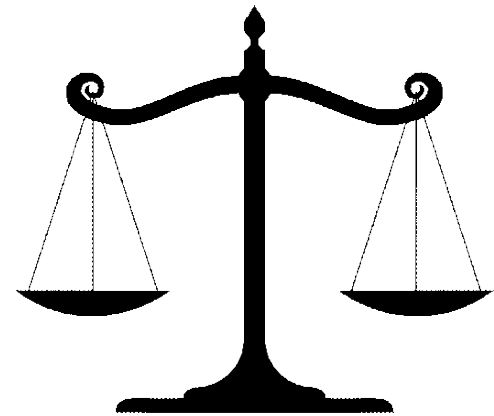
NEW HEARING REQUIREMENT

- Once the report is received, the court is required to hold a hearing *within 10 days*. ORS 419B.449(1)(e).
 - The 10 day period is calculated using calendar days. The period starts running the day after the report is filed. The last day is included in the period, unless it falls on a Saturday or legal holiday, in which event the period runs until the end of the next day that is not a Saturday or legal holiday. ORS 419B.854(1).

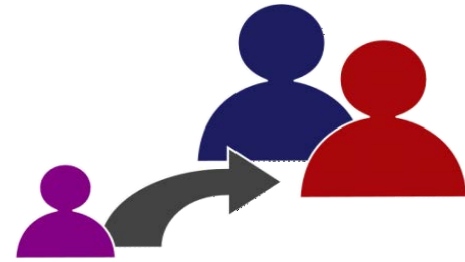


COURT AUTHORITY TO REVIEW PLACEMENT – NEW CATEGORY

- Court may review child's placement **or proposed placement.**
 - After finding that placement is **not in child's best interest,** the court may direct DHS to **place or maintain** the child in the care of:
 - The child's parents;
 - In foster care with:
 - a relative
 - ***current caretaker (is or has been)***
 - non-relative, non-current caretaker
 - residential care
 - group care
 - some other specific type of residential placement.



COURT AUTHORITY TO DIRECT PLACEMENT - LIMITATIONS



- Specific placement. Unless otherwise required by law, the court may not direct a specific placement.
 - The actual planning and placement of the child is the responsibility of DHS.
- Adoptive placement. May not direct DHS to place or maintain child where the effect would be to remove child or prevent placement with the selected adoptive placement after administrative and judicial review procedures under ORS Chapter 183 have expired.



REQUIRED FINDINGS

- At the conclusion of a hearing under ORS 419B.449(1), the court shall enter findings of fact. ORS 419B.449(2)
- These findings can be made using the [Model Review Judgment](#) form.

**IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR _____ COUNTY**

In the Matter of: _____) Case Number: _____
 _____)
 _____) **REVIEW JUDGMENT**
 A Child. _____) (ORS 419B.449)

This matter came before the court on: _____, 20____.

Persons appearing:

Legal Father (<i>name</i>):	Attorney:
Putative Father (<i>name</i>):	Attorney:
Mother:	Attorney:
Child:	Attorney:
Tribal:	Tribal Atty/Rep:
CASA:	Deputy D.A.:
Guardian:	Assist. Atty Gen'l:
DHS Caseworker:	Other:
Guardian Ad Litem:	Other:



PLACEMENT FINDINGS AND ORDERS

7. PLACEMENT FINDINGS

- The child's current placement is: in home with parent or guardian, or substitute care:
 relative current caretaker non-relative/non-current caretaker permanent foster care
 residential adoptive resource Other: _____
- Current placement is is not in the best interests of the child.
 - Proposed placement is is not in the best interests of the child.

- **Placement:** The child will remain in substitute care.
 Based on the court's finding that the current or proposed placement is not in the best interests of the child, DHS is ordered to place or maintain the child: in home with parent or substitute care with: relative current caretaker non-relative/non-current caretaker residential other: _____



PROSPECTIVE ADOPTIVE PARENTS

- DHS rules for adoption home studies and placement reports must require DHS to:
 - Consider each prospective adoptive parent on the basis of that person's ability to meet the **individual needs** of the child for **safety, attachment and well-being; and**
 - Consider a child's relatives and current caretaker as having **equal status** and priority as prospective adoptive parents in the consideration of their respective abilities to meet the child's individual needs for safety, attachment and well-being; ***and***
 - Give a **child's relatives and current caretaker a greater weight** in the consideration of suitability as prospective adoptive parents **as compared to others who are not relatives or current caretakers.**



DHS TEMPORARY RULES (1/1/16- 6/28/16)

- Identification and Consideration of Potential Adoptive Resources:
 - [OAR 413-120-0700 to OAR 413-120-0760](#)
- DHS Child Welfare Manual:
 - [Chapter 5: Adoption, Guardianship and Other Permanency Plans](#)



RELATIONSHIP TO CAREGIVER STATUS

Current Caretaker: ORS 419A.004 (9)

- Limited to foster parent
- Plan or concurrent plan must be adoption
- Covers siblings not in physical custody of foster parent



Caregiver Relationship: ORS 419B.116

- May include relationship that existed prior to entering care (should also qualify as “relative” under DHS policy)
- If foster parent, relationship must be for at least 12 consecutive months
- Must’ve had physical custody and provided child with love, nurturing and other necessities required to meet the child’s psychological and physical needs.
- May file motion to intervene; if allowed, has party status
- DHS must make diligent efforts to place with caregiver. ORS 419B.192



BEST PRACTICES

- Review diligent efforts to place with relatives and caregivers. ORS 419B.192
 - Findings required:
 - Shelter: ORS 419B.185(1)(e)
 - Disposition: ORS 419B.337(1)(c)
 - Review: ORS 419B.449(3)(b)
 - Permanency: ORS 419B.476(2)(d)



CONSIDERATIONS

- Has DHS asked the following people for information about relatives and persons with an emotionally significant relationship with the child and checked relevant records?
 - Parents
 - Child
 - Family members
 - Teachers and school staff
 - Day care providers
 - Family's spiritual or church leaders
 - Previous child welfare records
 - Other available state databases
 - Internet search engines



CONSIDERATIONS

- When and how often has this information been requested?
- Is the family reluctant to provide information about relatives?
- What has DHS done to follow up on contacts and engage relatives?



