

HB 2849-A10
(LC 821)
6/12/19 (LAS/ps)

Requested by JOINT COMMITTEE ON WAYS AND MEANS

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 2849
(INCLUDING AMENDMENTS TO RESOLVE CONFLICTS)**

1 On page 2 of the printed A-engrossed bill, after line 2, insert:

2 **“SECTION 2a.** If Senate Bill 924 becomes law, section 2 of this 2019 Act
3 is amended to read:

4 **“Sec. 2.** (1) If it reasonably appears that a child is a runaway, the child
5 may be taken into protective custody by a peace officer, counselor, employee
6 of the Department of Human Services or any other person authorized by the
7 juvenile court of the county in which the child is found.

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

11 **“(a)(A)** Shall release the child without unnecessary delay to the custody
12 of the child’s parent or guardian or to a shelter **care** facility that has agreed
13 to provide care and services to runaway children and that has been desig-
14 nated by the juvenile court to provide such care and services; or

15 **“(B)** Shall follow the procedures described in ORS 419B.160, 419B.165,
16 419B.168 and 419B.171;

17 **“(b)** Shall, if possible, determine the preferences of the child and the
18 child’s parent or guardian as to whether the best interests of the child are
19 better served by placement in a shelter **care** facility that has agreed to pro-
20 vide care and services to runaway children and that has been designated by

1 the juvenile court to provide such care and services or by release to the
2 child's parent or guardian; and

3 “(c) Notwithstanding ORS 419B.165 and subsection (1) of this section,
4 shall release the child to a shelter **care** facility that has agreed to provide
5 care and services to runaway children and that has been designated by the
6 juvenile court to provide such care and services if it reasonably appears that
7 the child would not willingly remain at home if released to the child's parent
8 or guardian.”.

9 On page 4, after line 11, insert:

10 **“SECTION 3a. If Senate Bill 924 becomes law, section 3 of this 2019**
11 **Act (amending ORS 419B.150) is repealed and ORS 419B.150, as**
12 **amended by section 8, chapter __, Oregon Laws 2019 (Enrolled Senate**
13 **Bill 924), is amended to read:**

14 “419B.150. [(1) A child may be taken into protective custody by a peace of-
15 ficer, counselor, employee of the Department of Human Services or any other
16 person authorized by the juvenile court of the county in which the child is
17 found, in the following circumstances:]

18 “[a) When the child's condition or surroundings reasonably appear to be
19 such as to jeopardize the child's welfare;]

20 “[b) When the juvenile court, by order indorsed on the summons as pro-
21 vided in ORS 419B.839 or otherwise, has ordered that the child be taken into
22 protective custody; or]

23 “[c) When it reasonably appears that the child has run away from home.]

24 “[(2)(a) Before issuing an order under subsection (1)(b) of this section, the
25 court shall review an affidavit sworn on information and belief provided by a
26 peace officer, counselor or employee of the department or other person author-
27 ized by the juvenile court that sets forth with particularity the facts and cir-
28 cumstances on which the request for protective custody is based, why protective
29 custody is in the best interests of the child and the reasonable efforts or, if the
30 Indian Child Welfare Act applies, active efforts made by the department to

1 *eliminate the need for protective custody of the child.]*

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

8 *“(c) The court may issue an order even though no services have been pro-*
9 *vided if the court makes written findings that no existing services could elim-*
10 *inate the need for protective custody of the child and that protective custody*
11 *is in the best interests of the child.]*

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

15 *“(a)(A) Shall release the child without unnecessary delay to the custody*
16 *of the child’s parent or guardian or to a shelter care facility that has agreed*
17 *to provide care and services to children who have run away from home and*
18 *that has been designated by the juvenile court to provide such care and ser-*
19 *vices; or]*

20 *“(B) Shall follow the procedures described in ORS 419B.160, 419B.165,*
21 *419B.168 and 419B.171;]*

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

28 *“(c) Notwithstanding ORS 419B.165 and subsection (1) of this section,*
29 *shall release the child to a shelter care facility that has agreed to provide care*
30 *and services to children who have run away from home and that has been*

1 *designated by the juvenile court to provide such care and services if it rea-*
2 *sonably appears that the child would not willingly remain at home if released*
3 *to the child's parent or guardian.]*

4 **“(1) As used in this section:**

5 **“(a) ‘Abuse’ has the meaning given that term in ORS 419B.005.**

6 **“(b) ‘Reasonable cause’ means a subjectively and objectively rea-**
7 **sonable belief, given all of the circumstances and based on specific and**
8 **articulable facts.**

9 **“(c) ‘Severe harm’ means:**

10 **“(A) Life-threatening damage; or**

11 **“(B) Significant or acute injury to a person’s physical, sexual or**
12 **psychological functioning.**

13 **“(2) The following persons are authorized to take a child into pro-**
14 **TECTIVE custody under this section:**

15 **“(a) A peace officer, as defined in ORS 420.905;**

16 **“(b) A counselor; or**

17 **“(c) An employee of the Department of Human Services.**

18 **“(3)(a) Except as provided in paragraph (b) of this subsection, a**
19 **child may be taken into protective custody without a court order only**
20 **when there is reasonable cause to believe that:**

21 **“(A) There is an imminent threat of severe harm to the child;**

22 **“(B) The child poses an imminent threat of severe harm to self or**
23 **others; or**

24 **“(C) There is an imminent threat that the child’s parent or guard-**
25 **ian will cause the child to be beyond the reach of the juvenile court**
26 **before the court can order that the child be taken into protective**
27 **custody under subsection (6) of this section.**

28 **“(b) If there is reason to know that the child is an Indian child, the**
29 **child may be taken into protective custody without a court order only**
30 **when it is necessary to prevent imminent physical damage or harm to**

1 **the child.**

2 **“(4) A person authorized to take a child into protective custody**
3 **shall apply for a protective custody order, as described in subsection**
4 **(6) of this section, by submitting a declaration based on information**
5 **and belief that sets forth with particularity:**

6 **“(a) Why protective custody is necessary and the least restrictive**
7 **means available to:**

8 **“(A) Protect the child from abuse;**

9 **“(B) Prevent the child from inflicting harm on self or others;**

10 **“(C) Ensure that the child remains within the reach of the juvenile**
11 **court to protect the child from abuse or to prevent the child from in-**
12 **licting harm on self or others; or**

13 **“(D) If the department knows or has reason to know that the child**
14 **is an Indian child, prevent imminent physical damage or harm to the**
15 **child.**

16 **“(b) Why protective custody is in the best interests of the child.**

17 **“(5)(a) The applicant under subsection (4) of this section shall de-**
18 **liver the declaration described in subsection (4) of this section to the**
19 **juvenile court.**

20 **“(b) At the applicant’s request, instead of the declaration described**
21 **in subsection (4) of this section, the judge may take an oral statement**
22 **under oath. If the applicant makes the oral statement to the judge out**
23 **of court, the applicant shall record the oral statement and retain a**
24 **copy of the recording. The recording constitutes a declaration for the**
25 **purposes of subsection (4) of this section.**

26 **“(6) The juvenile court may order that a child be taken into pro-**
27 **ductive custody if, after reviewing the declaration described in sub-**
28 **section (4) of this section, the court determines that:**

29 **“(a) Protective custody is necessary and the least restrictive means**
30 **available to:**

1 **“(A) Protect the child from abuse;**
2 **“(B) Prevent the child from inflicting harm on self or others;**
3 **“(C) Ensure that the child remains within the reach of the juvenile**
4 **court to protect the child from abuse or prevent the child from in-**
5 **flicting harm on self or others;**
6 **“(D) Ensure the safety of a child who has run away from home; or**
7 **“(E) If the department knows or has reason to know that the child**
8 **is an Indian child, prevent imminent physical damage or harm to the**
9 **child; and**
10 **“(b) Protective custody is in the best interests of the child.**
11 **“(7) When the court issues a protective custody order under sub-**
12 **section (6) of this section, the court may transmit the signed order to**
13 **the applicant by a form of electronic communication approved by the**
14 **court that delivers a complete printable image of the signed order. The**
15 **court shall file the original order in the court record.”.**

16 On page 6, after line 7, insert:

17 **“SECTION 6a. If House Bill 2033 becomes law, section 6 of this 2019**
18 **Act (amending ORS 419B.021) is repealed and ORS 419B.021, as**
19 **amended by section 1, chapter 153, Oregon Laws 2019 (Enrolled House**
20 **Bill 2033), is amended to read:**

21 **“419B.021. (1) Except as provided in subsection (2) of this section, a per-**
22 **son who conducts an investigation under ORS 419B.020, makes a determi-**
23 **nation that a child must be taken into protective custody under ORS**
24 **419B.150 or section 2 of this 2019 Act or makes a determination that a child**
25 **should not be released to the child’s parent or other responsible person under**
26 **ORS 419B.165 (2) must have:**

27 **“(a) At least a bachelor’s degree in:**

28 **“(A) Human services or a field related to human services; or**

29 **“(B) A field other than one described in subparagraph (A) of this para-**
30 **graph, if the Department of Human Services determines by rule that the**

1 coursework completed by the person is equivalent to a bachelor's degree in
2 human services and that the person has sufficient training in providing hu-
3 man services; or

4 “(b) An associate degree with additional training or additional certifica-
5 tion in human services or a field related to human services, as determined
6 by the department by rule.

7 “(2) Subsection (1) of this section does not apply to a law enforcement
8 official as defined in ORS 147.005.”.

9 On page 7, after line 32, insert:

10 **“SECTION 9a. If Senate Bill 924 becomes law, section 9 of this 2019**
11 **Act (amending ORS 419B.121) is repealed.”.**

12 On page 8, after line 37, insert:

13 **“SECTION 11a. If Senate Bill 924 becomes law, section 11 of this 2019**
14 **Act (amending ORS 419C.156) is repealed.”.**

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