

HOUSE AMENDMENTS TO A-ENGROSSED SENATE BILL 230

By COMMITTEE ON JUDICIARY

June 13

- 1 On page 1 of the printed A-engrossed bill, line 2, delete “and”.
- 2 In line 3, before the period insert “; and declaring an emergency”.
- 3 Delete lines 7 through 27 and insert:
- 4 **“SECTION 2.** (1) In a proceeding under this chapter, including a proceeding for the termination
5 of parental rights, the court, on its own motion or on the written or oral motion of a party in the
6 proceeding, may appoint a guardian ad litem for a parent involved in the proceeding as provided in
7 this section.
- 8 “(2) The court shall conduct a hearing to determine whether to appoint a guardian ad litem in
9 a proceeding under this chapter if:
- 10 “(a) A party moves for the appointment and the affidavit or oral representations submitted in
11 support of the motion state facts that, if proved at a hearing under this section, would establish that
12 it is more probable than not that:
- 13 “(A) Due to the parent’s mental or physical disability or impairment, the parent lacks substan-
14 tial capacity either to understand the nature and consequences of the proceeding or to give direc-
15 tion and assistance to the parent’s attorney on decisions the parent must make in the proceeding;
16 and
- 17 “(B) The appointment of a guardian ad litem is necessary to protect the parent’s rights in the
18 proceeding during the period of the parent’s disability or impairment; or
- 19 “(b) The court has a reasonable belief that:
- 20 “(A) Due to the parent’s mental or physical disability or impairment, the parent lacks substan-
21 tial capacity either to understand the nature and consequences of the proceeding or to give direc-
22 tion and assistance to the parent’s attorney on decisions the parent must make in the proceeding;
23 and
- 24 “(B) The appointment of a guardian ad litem is necessary to protect the parent’s rights in the
25 proceeding during the period of the parent’s disability or impairment.
- 26 “(3)(a) A court may not appoint a guardian ad litem under this section unless the court conducts
27 a hearing. At the hearing, the court may receive testimony, reports and other evidence without re-
28 gard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the
29 evidence is:
- 30 “(A) Relevant to the findings required under this section; and
- 31 “(B) Of a type commonly relied upon by reasonably prudent persons in the conduct of their se-
32 rious affairs.
- 33 “(b) For purposes of this subsection, evidence is relevant if it is ‘relevant evidence’ as defined
34 in ORS 40.150.
- 35 “(4) A court may not appoint a guardian ad litem for a parent unless the court finds by a pre-

1 ponderance of the evidence presented at the hearing that:

2 “(a) Due to the parent’s mental or physical disability or impairment, the parent lacks substantial
3 capacity either to understand the nature and consequences of the proceeding or to give direction
4 and assistance to the parent’s attorney on decisions the parent must make in the proceeding; and

5 “(b) The appointment of a guardian ad litem is necessary to protect the parent’s rights in the
6 proceeding during the period of the parent’s disability or impairment.”.

7 On page 2, delete lines 1 through 5.

8 In line 6, delete “(6)” and insert “(5)”.

9 In line 14, after “disabilities” insert “or impairments”.

10 In line 33, after “parent” insert “in the proceeding”.

11 In line 38, delete “proceedings” and insert “proceeding”.

12 In line 39, after “make” insert “in the proceeding”.

13 In line 41, after “parent” insert “in the proceeding”.

14 On page 3, line 19, delete “to either” and insert “either to”.

15 In line 20, delete “ceedings” and insert “ceeding” and after “or” insert “to”.

16 In line 21, after “make” insert “in the proceeding”.

17 On page 7, after line 44, insert:

18 **“SECTION 10. This 2005 Act being necessary for the immediate preservation of the public
19 peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect
20 on its passage.”.**

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