



THE TOP 10 THINGS EVERY LEGISLATOR SHOULD KNOW ABOUT JUVENILE DEPENDENCY COURT IN OREGON

**Presented by: The Honorable Nan Waller
Presiding Judge
Multnomah County Circuit Court**

TOP 10

1. Juvenile cases are different
2. Juvenile law is complex
3. Juvenile court jurisdiction
4. Basic juvenile law concepts
5. Dependency and termination hearings
6. Confidentiality of juvenile court records
7. Citizen involvement
8. Model Courts
9. Initiatives to safely and equitably reduce the number of children in foster care
10. 2015 Legislative Session Bills of Interest





#1

JUVENILE CASES ARE DIFFERENT

JUVENILE CASES ARE DIFFERENT

- High risk cases
- Rare opportunity to shape what happens in the future, rather than just looking back
- Risk of reversal, delay and disintegration
- The juvenile court judge is an “Inquiring Magistrate”
- A juvenile court judge is responsible for:
 - Ensuring that the case proceeds in compliance with statutory timelines
 - Continually assessing the adequacy of the case plan
 - Making the findings required by statute for each hearing
 - Ensuring that the court’s judgments are legally sufficient
 - Holding the system, participants, and themselves accountable
 - Actively participate in policy, rules and procedures development
 - Serving as convener and advocate to assure accountability



CHILD WELL BEING

ACES

The myth that the child is better off in foster care

o “ReMoved” Short Film

This 13 minute video is best described by the Santa Barbara Independent:

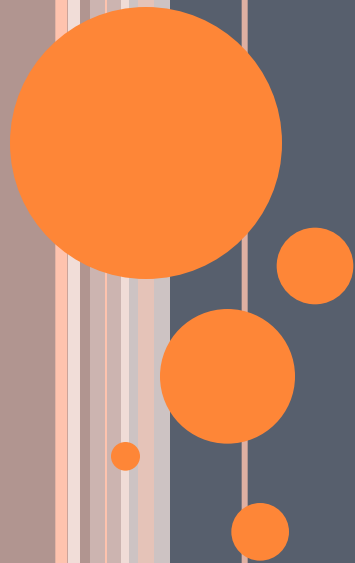
“It would be impossible to fully understand the life and emotions of a child going through the foster care system, but this short narrative film portrays that saga in a poetic light, with brushes of fear, anger, sadness and a tiny bit of hope.”



ONGOING JUDICIAL OVERSIGHT IS KEY

- Did DHS explore options to maintain the child safely at home? With appropriate supports to parent, could the state have avoided placing this child in foster care?
- Did DHS make diligent efforts to place the child with relatives and siblings?
- Should a CASA be appointed? ORS 419B.112
- Is the placement appropriate? ORS 419B.349.
 - Child's attorney, CASA
- Were appropriate supports provided to the foster parent to assist with the child's issues?
- Has DHS provided the required medical, dental and mental health assessments and have all recommendations been followed?
 - CRB, CASA
- What circumstance must exist before the child can be safe at home?
- Insist on accountability at every review to avoid delays in permanency
- Are the services being provided to parents and children culturally responsive?

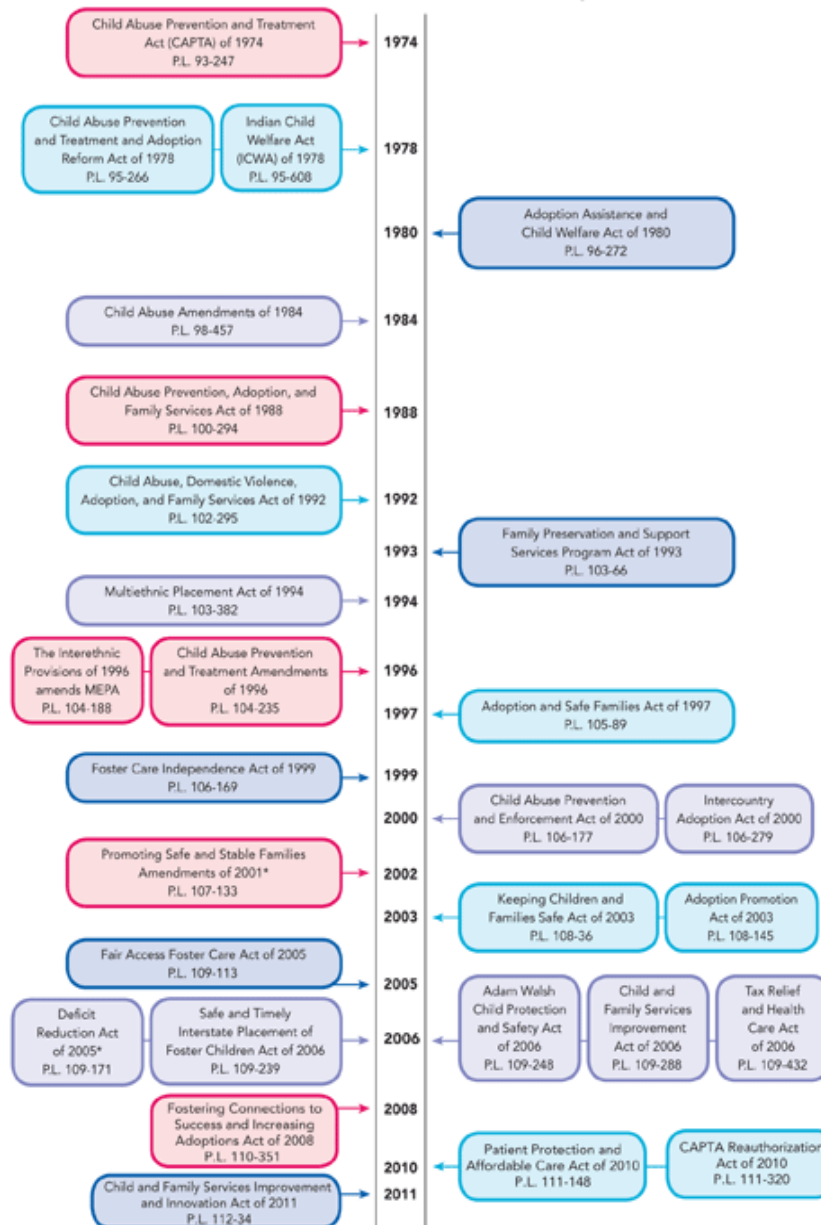




#2

JUVENILE LAW IS COMPLEX

Timeline of Major Federal Legislation Concerned With Child Protection, Child Welfare, and Adoption



OREGON'S JUVENILE COURT IMPROVEMENT PROGRAM (FEDERALLY FUNDED)

- Links to JCIP online resources:
 - [Benchbook](#)
 - [Model Forms](#)
 - [Training Materials](#)
 - information from past conferences
 - [2012 Judiciary Committees Video presentation](#)
 - detailed discussion of court process and brain development/science presentation by JCIP and Oregon Social Learning Center
 - [Educational Resources](#)
 - Learning Modules and Guides





#3

JUVENILE COURT JURISDICTION

JUVENILE COURT JURISDICTION

- Exclusive original jurisdiction in any case involving a person under age 18, and who meets one of the following criteria (ORS 419B.100):
 - Beyond the control of the parents, guardian.
 - Whose behavior endangers the welfare of the person or others.
 - Whose condition or circumstances are such as to endanger the welfare of the person or of others.
 - Who is dependent on a child-caring agency that needs the services of the court for planning for the best interest of the child.
 - Who has run away.
 - Who has filed a petition for emancipation.
- Whose parents or custodians have:
 - Abandoned the child;
 - Failed to provide care or education to the child;
 - Subjected the child to cruelty, depravity or unexplained physical injury, or
 - Failed to provide the child with the care, guidance and protection necessary for the physical, mental or emotional well-being of the child.



JUVENILE COURT JURISDICTION (CONTINUED)

- **Jurisdiction is over the child.** Petition allegations must be resolved as to both parents before the court can take jurisdiction over the child, if both parents have appeared.
- **Court ordered services.** May order the parent or guardian into services after jurisdiction is established, provided the parent was served with summons prior to the adjudication. ORS 419B.385.
- **Rational relationship required.** Any services ordered must bear a rational relationship to the basis for jurisdiction.





#4

BASIC JUVENILE LAW CONCEPTS

BASIC JUVENILE LAW CONCEPTS

Legal Parties

(ORS 419B.875)

- Child
- Parents/guardians
- Stanley father (until paternity confirmed)
- State
- Juvenile department
- CASA
- DHS/Child Caring Agency (if temporary custody)
- Tribe (if it has intervened pursuant to ICWA)
- Intervenor (for dependency case, not if it goes to termination)

Others

- Persons granted rights of limited participation
- Foster parent, preadoptive parent or relative providing care for the child or ward
 - Right to notice of proceedings & to be heard
- Grandparents
 - DHS must make diligent efforts to identify and obtain contact information if child is in DHS custody.
 - Right to notice of proceedings & to be heard
 - May request visitation. ORS 419B.876.



BASIC JUVENILE LAW CONCEPTS (CONT)

○ **Court Appointed Counsel**

- Court may appoint counsel to represent the child, parent or guardian when without sufficient financial means. ORS 419B.185.
- Early appointment of counsel improves outcomes for children.

○ **Counsel for State - DDA**

○ **Counsel for DHS – AAG**

- **Need for Full Representation (SB 222)**

○ **Attorney Standards of Representation** **(children and parents)**



BASIC JUVENILE LAW CONCEPTS (CONT)

- Title IV-E of the Social Security Act Requirements. 42 U.S.C. 675
 - Periodic review
 - Permanency hearings
 - Case plans
 - State must initiate termination proceedings if the child has been in care for at least 15 of the most recent 22 months, unless an exception applies.
 - Reunification
 - Reasonable /Active Efforts



BASIC JUVENILE LAW CONCEPTS (CONT)

- DHS is required to make diligent efforts to place the child with siblings, relatives and persons with caregiver relationship. ORS 419B.192.
 - Based on research that outcomes are better for children who are placed with relatives.
- The court is required to review DHS efforts to place the child with relatives, and make a diligent efforts finding.
 - The case plan should describe efforts to locate relatives and address why siblings are not placed together.



BASIC JUVENILE LAW CONCEPTS (CONT)

○ Who is a relative?

- Definition is broad
 - Blood relatives (even after termination)
 - People the child or child's family considers relatives
 - An individual the child had an emotionally significant relationship with prior to entering care
 - Parents (including adoptive) of half-siblings if half-sibling living with that parent.
 - Spouse of a blood relative, even if marriage terminated
 - Stepparent (if relationship w/child)
 - Registered domestic partner (if relationship w/child)
- Defined by DHS policy



BASIC JUVENILE LAW CONCEPTS (CONT)

Indian Child Welfare Act

- Applies to “Indian Child”
- Tribe may intervene
- Standard of proof
- Active efforts
- Placement preferences

Permanency plans

- Reunification
- Adoption
- Guardianship
- Placement with a Fit and Willing Relative
- Another Planned Permanent Living Arrangement





#5

**DEPENDENCY AND
TERMINATION HEARINGS**

Oregon's Juvenile Dependency Court Proceedings

This hearing must be held within 24 Judicial hours after placement (excluding weekends and holidays). The purpose is to determine issues about removal of the child from parental custody.

This time line shows the **maximum** times permitted by state and federal law. Courts may schedule proceedings sooner than the times shown due to the special circumstances of a case and parent progress with the case plan. Courts sometimes schedule additional hearings following jurisdiction to review parental compliance and progress on the case plan.

**Shelter
Hearing**

**Pre-Trial
(Preliminary)
Hearing**

**Jurisdiction
&
Disposition
Hearing**

**CRB
Review**

**CRB
Review**

**Permanency
Hearing**

Day 1

Day 30

Day 60

**Day 180
(6 months)**

**Day 360
(12 months)**

**Day 420
(14 months)**

This hearing resolves as many issues as possible before trial including: wording of the petition, negotiations, and admission or denial of allegations. In some cases, parents may admit or deny allegations by filing papers with the court instead of appearing at a hearing.

At this hearing, the court takes evidence and makes decisions on the allegations of the petition. Judges also issue their rulings (also called the disposition) on the case plan, services, timelines, and consequences of noncompliance.

The Citizen Review Board (CRB) reviews the case plans of children in substitute care. The parents, foster parents, attorneys, caseworker, other interested parties, and child, if appropriate, are invited to attend the review and discuss the plan for each child. The CRB makes recommendations and findings as to whether the plan and services are appropriate. Subsequent CRB reviews are held every six months unless the court holds a hearing that cancels the CRB.

At this hearing the court reviews parent progress and decides on a permanent plan for a child in foster care. Subsequent permanency hearings are held every 12 months until the child leaves care.

DEPENDENCY AND TERMINATION HEARINGS – KEY INQUIRIES

- Shelter: Can the child be made safe in the home until the petition is resolved?
- Jurisdiction: Is the child within the court's jurisdiction?
- Disposition: What assistance do the parent(s) and child require to address the basis for jurisdiction?
- Review: How are the child and parent(s) progressing, should the case plan be modified, is the concurrent planning appropriate, and should wardship continue?
- Permanency: When and where will the child be in a safe, permanent home?
- Termination of Parental Rights: Are the statutory grounds for termination and satisfied, and is termination in the child's best interests?



HEARINGS - FINDINGS

- The Court's orders and judgments in all of these proceedings must be based on the evidentiary record.
- Evidence can only be basis for finding if it is:
 - Sworn testimony
 - Admitted as an exhibit
 - Stipulated to by the parties, or
 - The Court takes judicial notice of it.

See *State ex rel Juv. Dept. v. Lewis*, 193 Or App 264 (2004); *State ex rel Juv. Dept. v. K.L.*, 223 Or App 35 (2008)



HEARINGS – CHILDREN IN COURT

- Foster Children's Bill of Rights
 - Children have the right to complain about their care without fear of retaliation. ORS 418.201
 - Foster Care Ombudsman, Darin Mancuso
 - Hotline: 1.855.840.6036 (9a.m. to 5 p.m./voice mail after hours)
 - Children have the right to notice and transportation to hearings and CRB reviews.
 - If matters to be decided are appropriate, taking into account age and development





#6

**CONFIDENTIALITY OF JUVENILE
COURT RECORDS**

JUVENILE COURT PROCEEDINGS ARE OPEN TO THE PUBLIC; HOWEVER, JUVENILE COURT RECORDS ARE CONFIDENTIAL.

○ Exceptions:

- Evaluating the child's eligibility for special education
- In connection with presentence investigation after guilt established in criminal court
- In connection with another juvenile court proceeding or appeal from juvenile court.
- "Clear and immediate danger"

○ Exceptions - Delinquency cases:

- Name and date of birth of the youth
- Basis for juvenile court's jurisdiction
- Date, time and place of any juvenile court proceeding in which the youth or youth offender is involved
- The act alleged in the petition
- The portion of the juvenile court order providing for legal disposition of the youth offender
- The names and addresses of the youth and the youth's parents/guardians
- The case register



JUVENILE COURT RECORDS (CONT)

○ **Two kinds of files**

- Record of the case (used to be “legal”)
- Supplemental confidential file (used to be “social”)

○ **Access depends on who you are.**

• Unlimited:

- Judges, staff, CRB, attorneys/prospective appellate attorneys, service providers, CASA, DA/AG/Juvenile Dept/DHS/OYA

• Limited:

- Child, ward, youth, youth offender
- Parent/Guardian/GAL
- Intervenors
- Educational surrogate, Superintendent





#7

CITIZEN INVOLVEMENT

Citizen Review Board (CRB)

Court Appointed Special Advocates (CASA)

Greater Community

CITIZEN REVIEW BOARD

- Part of the Judicial Branch: ORS 419A.090
- Purpose
 - Conduct the “periodic reviews” required by federal and state law
 - Make legally required findings that become part of the legal file
 - Make recommendations to the DHS, court, parties
 - Bring community voice to process
- Frequency of reviews
 - Every six months, unless the court has held a permanency hearing or full judicial review.
- Benefits
 - In depth review without rules of evidence
 - Less formal - Boards seek input from all legal and interested parties to make findings
 - Various backgrounds – education, mental health, law enforcement
 - Review guided by lawyers / professionals with extensive training in juvenile law
 - Saves court time
 - Gives court “context”
- Areas of expertise
 - Child well being
 - Transition planning
 - Working knowledge of DHS policies




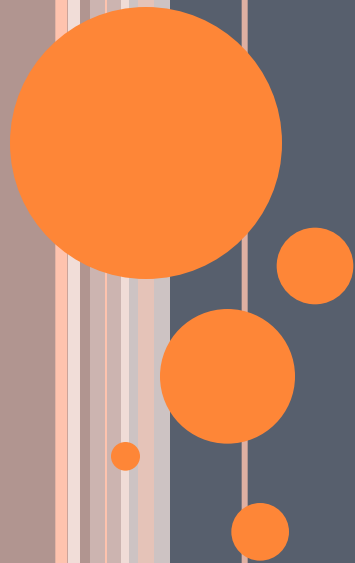
COURT APPOINTED SPECIAL ADVOCATES

- Appointed by the court to serve on individual cases.
- Duties:
 - Investigate all relevant information about the case;
 - Advocate for the child, ensuring all relevant facts are brought before the court;
 - “Facilitate and negotiate” to ensure the court, DHS, and the child’s attorney fulfill their obligations to the child in a timely fashion; and
 - Monitor court orders to ensure compliance and to bring to the court’s attention any change in circumstances that may require a modification in the court’s order.
- CASA is a legal party, and may:
 - File pleadings
 - Request hearings
 - Subpoena, examine and cross-examine witnesses
 - Be represented by counsel.
 - File an appeal
- The CASA has the right to:
 - Notice of the proceeding
 - Copies of the juvenile court file, health records, mental health records, and the records of any agency, hospital school, division, office or department of the state



THE GREATER COMMUNITY

- Extended family
 - Neighborhoods
 - Faith-based community
 - Business community
 - Schools
 - Media
 - Children in foster care are the responsibility of the whole community
 - Good outcomes require the whole community to be aware and involved
 - Community involvement and support can play an integral role in both the reunification of children and families and the preservation of foster care placements for those children who can't be reunited
- 



#8
MODEL COURTS

MODEL COURTS

- A multi-disciplinary work group involving system stakeholders.
 - attorneys, DHS, CRB, CASA
 - Juvenile court judge is typically the leader
 - Work to identify problems and solutions
- Focus on best practice and system change
 - Timeliness of hearings
 - Improved visitation practices
 - Early intervention for young children
 - Reducing the number of children in care
 - Increasing time to permanency
 - Decreasing the number of children in APPLA





#9

**STATE INITIATIVES TO SAFELY AND
EQUITABLY REDUCE THE NUMBER OF
CHILDREN IN FOSTER CARE**

**Courts must be engaged in these efforts because
no child enters foster care or leaves foster care
without a court order.**

CASEY FAMILY PROGRAMS PARTNERSHIP

- Oregon's rate of foster care was higher than other states.
 - Children in care too long
 - Permanent foster care primary plan for too many children
 - Disproportionate number of American Indian/Alaskan Native and African American children.
- Initiative to address problem beginning in 2009
 - 11 counties have participated and now Multnomah is a “driver county”
 - Permanency roundtables
 - Local initiatives to increase relative placements, decrease APPLA placements, etc.



STRENGTHENING, PRESERVING AND REUNIFYING FAMILIES (SPRF)

- Senate Bill 964 (2011); now codified at ORS 418.580.
 - Focus on improved services and earlier intervention.
 - GAP analysis
 - Local budget for services
 - Service array: ORS 418.580
- Differential Response
 - Traditional and Alternative Tracks
 - Decision Flow Charts
 - Track Assignment Tool
 - Revised administrative rules that apply to DR counties
 - [DHS Differential Response Procedure Manual](#)
 - Roll out began in May, 2014 with Lane, Lake and Klamath Counties





#10

**2015 LEGISLATIVE SESSION
BILLS OF INTEREST**

2015 LEGISLATIVE SESSION

BILLS OF INTEREST

- SB 222 – AG representation for DHS in juvenile court hearings
- HB 2908 – Brings Oregon law into compliance with federal Preventing Sex Trafficking and Strengthening Families Act of 2014
- HB 3014 – Technical fix to definition of "grandparent" in dependency hearings when grandchildren are in legal custody of DHS
- SB 405 – Confidentiality provisions of juvenile court records
- HB 2889 – Requires DHS to ensure child reaching 12 years of age has savings account in child's name
- HB 2890 – Requires DHS to ensure provision of at least one extracurricular activity to children receiving care or services
- HB 2358 – establishes pilot programs in four to six Oregon counties to reduce foster care use through effective representation in juvenile dependency proceedings

