

Case Coordination Protocol

1. Domestic Relations, FAPA, Filiation and Guardianship Proceedings.

Mandatory consolidation with juvenile proceedings in which the legal or physical custody of the same child is at issue. ORS 419B.806. These matters are consolidated and assigned to an individual (dependency) calendar judge. Related FAPA cases are also consolidated. The assigned judge has discretion to gather any other related cases involving the family, including criminal cases, after consultation with any affected individual calendar judge.

2. Custody Cases and FAPA Cases.

These matters are consolidated in accordance with the Court's FAPA Consolidation Procedure. When a restraining order petition is filed, the Family Law Department searches for related cases. If there's a related case assigned to the individual calendar, staff gives that judge the option to review the petition if he or she is available. That judge has the option to consolidate the FAPA and the pending case. If the FAPA remains unassigned and a request for hearing is later filed, calendaring staff again conducts an OJIN search to see if any related cases are assigned to a judge. If so, the calendaring clerk checks with the assigned judge's staff to see if there is room on that judge's calendar to accommodate the hearing. If not, the Miscellaneous Calendar Judge will hear the objection and consolidate the matters at the conclusion of the hearing. In addition, an attorney may request a judge assignment for a contested FAPA and related custody case before the custody case is contested¹.

3. Juvenile Dependency/Termination Cases and FAPA Cases.

Consolidation is arguably required pursuant to ORS 419B.806. The judge handling the FAPA and the juvenile judge should consult, and may decide the cases would be best heard together by the juvenile judge or an individual calendar judge. (If there is also a custody case [domestic relation, filiation or guardianship], the cases are assigned to an individual calendar dependency judge.)

¹ If the Respondent wants to consolidate a restraining order hearing with the pending case, the following must be performed before the matter will be removed from the Miscellaneous Calendar:

- file the appropriate pleading in the custody case;
- request consolidation from the assigned judge;
- obtain a new hearing date, thereby waiving statutory deadlines, satisfactory to the Court and the Petitioner;
- notify Petitioner (if unrepresented, the Court will contact Petitioner when Respondent files the motion with the Miscellaneous clerk); and
- notify the Miscellaneous Judge's staff.

4. Related Criminal and Juvenile Cases.

A. General Guidelines.

- Identification of Cases. Ideally, the attorneys will notify the annex judge and/or the juvenile judge of the other pending matter. If the criminal case involves a charge that may result in removal of a child, the annex judge may ask the attorneys if the child has been placed out of the home.
- Consultation. Consultation between the criminal and juvenile judge is always recommended. At the least, judges can send a copy of the notice of adjudication/judgment using the “Notice of Related Case” form on the MAR Documents database. Information sharing should keep ordered conditions and services consistent.
- Hearing Priority. The court is required to have a hearing on a dependency petition within 60 days. ORS 419B.305. The juvenile court may do this prior to sending it downtown, but if not, the downtown judge should be aware of the deadline. Also, the related criminal case should take priority on the docket if the child is placed out of home or in detention. This makes it less likely the child will be placed back at home prior to the criminal trial, which potentially can be harmful if the child has to testify in the criminal trial or if the parent is convicted and the child has to be removed a second time.

B. Assignment to One Judge

At the time a defendant pleads not guilty if there is a related dependency case in which the child is out of home, the criminal case will be assigned to the dependency judge downtown. If the dependency case is still at juvenile, it will be assigned to a dependency judge with the criminal matter. The cases may be assigned to an individual calendar (dependency) judge at different stages in the process as well if the dependency/juvenile judge and criminal judge believe that is the most appropriate course of action.

C. Specific Coordination Issues.

- Criminal Judgment. The judgment should reflect that the defendant shall comply with DHS conditions and juvenile court orders.
- Release Orders. The preferred practice is to allow an exception for contact with the child if allowed by the juvenile court or DHS. The state has the option to object, and if successful, inform the dependency judge.
- Probation Violations. The juvenile/dependency judge may be best suited to hear

any probation violation arising out of the related criminal case. If the matters are not already assigned to one judge, the juvenile/dependency judge may handle this at his or her option.

5. Domestic Relations Custody Cases: Child Abuse Allegations and Criminal Investigation.

A. Disclosure of Child Abuse During Custody Evaluation.

If a child abuse allegation is made during the course of a custody evaluation, the custody evaluator should report the abuse as required by law, and submit an interim report to the court. The report should make a recommendation regarding parenting time with the alleged abuser during any resulting investigation.

B. Confidentiality of Child Abuse Assessment.

The Court considers the child abuse assessment to be sensitive information and may require entry of a protective order limiting disclosure while there is a pending criminal investigation and/or criminal case, upon a request to review the assessment by a party to the domestic relations proceeding. In determining the scope of disclosure, the court should consider the following issues: (1) early disclosure of the report can harm the criminal investigation, (2) review of the videotaped interview by the abuser can be stimulating when there has been sexual abuse, and (3) domestic relations attorneys on the committee believe a child abuse assessment is a medical record, which, in the absence of a court order, each parent is entitled to without restriction.

C. Case Resolution.

There may be tension between the resolution of the domestic relations case and the need to conduct a full criminal investigation. One option allowing closure of the domestic relations case is to include a provision in the domestic relations judgment that allows the potentially offending parent to file a motion to modify once the criminal case is resolved.

6. Dismissal of Juvenile Dependency Cases and Parenting Plans.

Occasionally, the Court will dismiss a dependency case and direct the parents to file a domestic relations case to establish a parenting plan. Parents in this situation do not always follow the Court's direction, and once the dependency case is dismissed, the issue is off the Court's radar screen. The preferred practice is to hold the dependency case open until a judgment has been entered establishing an acceptable parenting plan.