

NEW JUDGE TRAINING: JUVENILE DEPENDENCY 101

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JUDGING IN CHILD ABUSE AND NEGLECT CASES

“Through the eyes of a child...”

INCREASING FEDERAL ROLE

- ❖ Mandates tied to federal funding
- ❖ Federal laws
- ❖ Increasing complexity/workload

SEPARATION OF DEPENDENCY AND DELINQUENCY

Best interest of the child

vs.

Public safety

SOME TERMS TO KEEP STRAIGHT...

Child -- person alleged to be within the jurisdiction of the court re ORS 419B – pre-adjudication

Ward -- person who is under the jurisdiction of the court re ORS 419B – post-adjudication

No executive branch
agency has the court in
its hair
as much as the DHS
does...

No executive branch
agency is as intrusive as
DHS

14th amendment liberty interest
in consanguinity

What is IV-E Funding?

Title IV-E of Social Security Act



Federal funds
for foster care
and some family services



FUNDS TIED TO JUDICIAL FINDINGS

Reasonable Efforts...

REASONABLE EFFORTS TO DO WHAT?

- To prevent removal, or
- To return child, or
- To finalize the permanent plan.

NO EFFORTS?



*No federal
money*

WHAT ABOUT THE KIDS?

State funds backfill...

...unless in relative care

POLICY BACKGROUND - FEDERAL

Adoption and Safe Families Act

- ❖ Timelines are shorter
- ❖ Mutual accountability
- ❖ Child's health and safety the “paramount concern”

BASIC GOAL OF JUVENILE COURT POLICY

Expeditious permanency

PERMANENCY IS NOT TERMINATION

Return to parent

- ❖ Adoption
- ❖ Permanent guardianship
- ❖ Durable guardianship
- ❖ Change of custody (107 or 109)
- ❖ Planned permanent living arrangement

Length of stay correlates to...

Homelessness

Repeating of cycle of abuse in
child's future parenting.

School drop-out

Incarceration

Juvenile delinquency

Teen pregnancy

Substance abuse

WAITING CHILDREN HAVE A SHELF LIFE...



It doesn't
matter why the
truck doesn't get to
the dairy on time...
...the milk spoils

CHILDREN HAVE RIGHTS...

- ❖ permanency with a safe family
- ❖ freedom from physical, sexual or emotional abuse or exploitation
- ❖ freedom from substantial neglect of basic needs

PARENTS HAVE THE DUTY...

- ❖ Afford children their rights
- ❖ Remove impediments to ability to perform parental duties

STATE HAS DUTY...

- ❖ To help parents get to where they can provide for the safety of their children, or, if the parents cannot do so...
- ❖ To provide an alternative safe and permanent home for the child.

PARTIES AND PROCESS

❖ Players

❖ Types of hearings

PLAYERS

- Judge
- District Attorney
- DHS / AAG
- Parents
- Lawyers
- Foster Parents
- Intervenors
- CASA
- Juvenile Department
- Relatives
- Educational Surrogates
- Citizen Review Board

PLAYERS

Judge

- ✓ Makes findings/orders
- ✓ Oversight for DHS
- ✓ Resolves disputes

PLAYERS

District Attorney

- ✓ Represents “the state” -- not the lawyer for DHS
- ✓ The prosecution
- ✓ Sometimes there, sometimes not

PLAYERS

- ✓ DHS -- Department of Human Services
 - social service agency charged with protecting children and working with parents to improve their parenting abilities
- ✓ AG -- Attorney General
 - legal counsel to DHS (will always agree with DHS)

PLAYERS

Parents

- ✓ All parents involved – there may be several
- ✓ Allegations regarding all
- ✓ Represented by counsel

PLAYERS

Lawyers

- ✓ Right to counsel/appointment of counsel for child and for parents
- ✓ Represent client...not necessarily best interest of child

PLAYERS

Intervenor

- ✓ A third party who has a relationship to the child
- ✓ Does not have the same rights as a parent
- ✓ ORS 419B.116

PLAYERS

CASA--Court Appointed Special Advocate

- ✓ Volunteer trained by CASA program
- ✓ Investigates and represents best interest of the child

PLAYERS

Juvenile Department

- ✓ Less and less involved (see the mission as delinquency cases)
- ✓ May be involved in scheduling, service

PLAYERS

Foster Parents

- ✓ *Not* a party (unless intervenor)
- ✓ Invited to all hearings
- ✓ Opportunity to be heard

PLAYERS

Relatives

- ✓ Increasingly important in case plan and concurrent plan
- ✓ Placement options
- ✓ Tensions with state, with DHS, with family

PLAYERS

Educational Surrogate

- ✓ ORS 419B.220
- ✓ Protects the due process rights of a child with respect to public education

PLAYERS

Indian Tribe -- Indian Child Welfare Act (ICWA)

- ✓ Federal law--supersedes state law
- ✓ Increased burden of proof
- ✓ Tribe is a party
- ✓ Presume if reason to believe
- ✓ Placement preferences

PLAYERS

Citizen Review Board

- ✓ Trained volunteers
- ✓ Extension of the court
- ✓ Makes findings and recommendations

DEPENDENCY HEARINGS

Shelter

Jurisdiction

Disposition

Permanency
Hearing



Admit/Deny

Review Hearing /CRB

Reasonable efforts
Best Interests
Notice
Petition legally adequate
UCCJEA
ICWA
Appointment of counsel
Appointment of CASA
Placement
Visits
Services
Restraining order

Concurrent
Plan
Implementation

Shelter

Jurisdiction

Disposition

Permanency
Hearing

Admit/Deny

Review Hearing/CRB



Concurrent
Plan
Implementation

Receive “plea”
Settle the case/admissions
Complete discovery

Shelter

Jurisdiction

Disposition

Permanency
Hearing

Admit/Deny

Review Hearing/CRB

Concurrent
Plan
Implementation



Determine whether evidence is sufficient to take jurisdiction
Determine whether allegations are sufficient to support intervention
Reasonable/active efforts finding

Shelter

Jurisdiction

Disposition

Permanency
Hearing

Admit/Deny

Review Hearing/CRB

Concurrent
Plan
Implementation



Ward of the court
Reasonable/active efforts findings
Approve current and concurrent plans
Review placement
Review visit plans
Order services for parents/child
Order DHS to make referrals
Set date of achievement
Review conditions for return

Shelter

Jurisdiction

Disposition

Permanency
Hearing

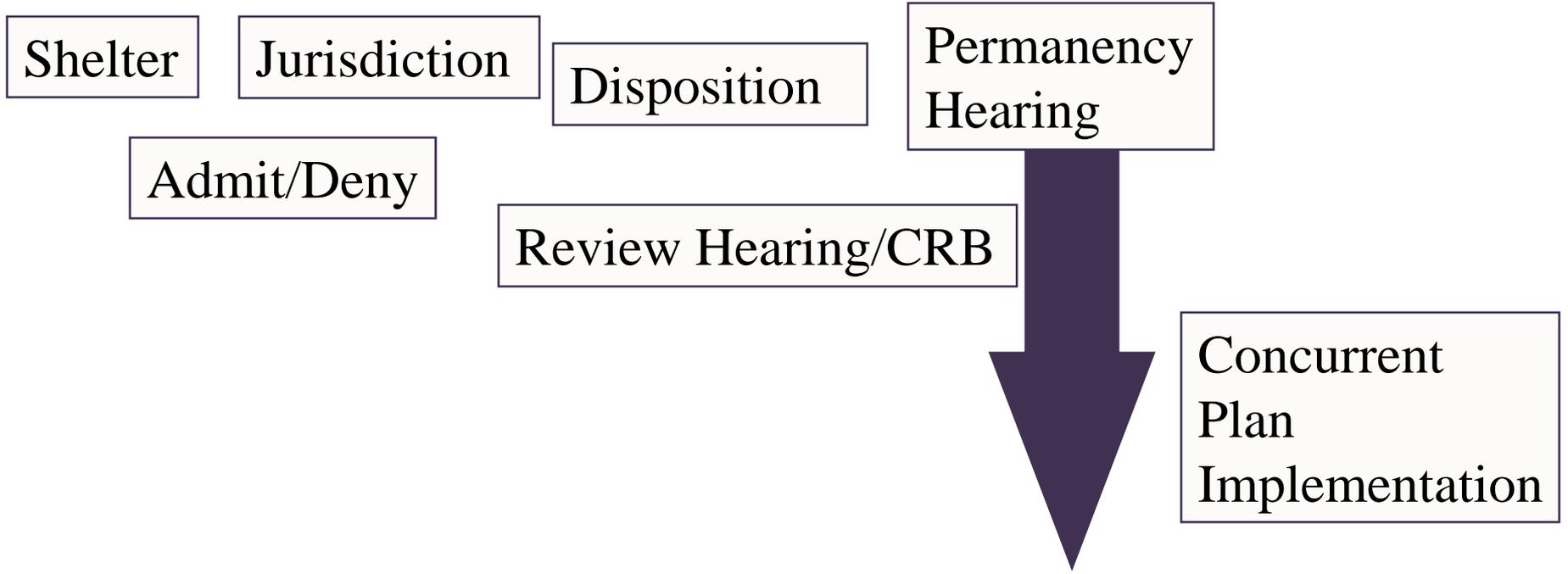
Admit/Deny

Review Hearing/CRB

Concurrent
Plan
Implementation



Review family progress
Review agency efforts
Adjust case plan
Make findings regarding visits, placements,
schools, DHS contacts
Write comments/orders on CRB reports



- Review family progress
- Review agency efforts
- Consult with child in age-appropriate manner
- Return to parent or move to concurrent plan or extend time
- 15/22 months findings
- Compelling reasons findings
- Review comprehensive transition plan

IMPLEMENTING ALTERNATIVE PERMANENCY

Kinds of hearings

- Termination of parental rights
- Guardianship
- Custody hearing
- PPLA/Permanent foster care

FINDINGS

Your findings will influence the case in many ways.

Evidence
is
cited in the
judgment
as findings

1. Brief statement

or
2. Incorporate by
reference

REASONABLE/ACTIVE EFFORTS FINDINGS

- To prevent or eliminate need for removal
- To return the child home
- To place child and finalize the concurrent plan

DEFINITION OF REASONABLE/ACTIVE EFFORTS



There
isn't
one

FAMILY TREATMENT COURT



CFSR - CHILDREN AND FAMILIES SERVICE REVIEW

Oregon has NEVER passed!

But you can help...