

# Determining the Best Strategy: Expediting Interstate Placement of Children

## A. Role of Oregon Courts in Interstate Placement

### 1. Oregon Revised Statutes

The court's role in child welfare cases in Oregon is limited to reviewing the actions of the executive branch's child welfare agency, the Oregon Department of Human Services (DHS). The frame of reference for this review is state law, ORS Chapters 419 A and B, the dependency statutes, and ORS Chapter 417.200 through 270, containing Oregon's codification of the Interstate Compact on the Placement of Children ("the Compact").

By state statute, placement of children, including interstate placement, is within the prerogative of the child welfare agency. The court's role is limited to review ensuring that procedures and processes dictated by law and rule are followed, including whether a particular placement is in the best interest of the child.

The wording of the statute, ORS 419B.349, is such as to include within that standard the "rights of the child...or the child's...parents" but the statute contemplates limiting the power of the court to determining the appropriate type of placement and not a specific placement of that appropriate type.<sup>1</sup>

For the most part, the court is limited, even if determines that a particular placement is not in the best interest of the child or that it violates the rights of the child or parent, to ordering the removal of the child from that placement but may not pick the new placement. *Shrewsbury v. Larson*, 52 Or App 81, 98-99 (1981).

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<sup>1</sup> 419B.349 Court authority to review placement. Commitment of a child or ward to the Department of Human Services does not terminate the court's continuing jurisdiction to protect the rights of the child or ward or the child or ward's parents or guardians. Notwithstanding ORS 419B.337 (5), if upon review of a placement of a child or ward made by the department the court determines that the placement is not in the best interest of the child or ward, the court may direct the department to place the child or ward in the care of the child or ward's parents, in foster care with a foster care provider who is a relative, in foster care with another foster care provider, in residential care, in group care or in some other specific type of residential placement, but unless otherwise required by law, the court may not direct a specific placement. The actual planning and placement of the child or ward is the responsibility of the department. Nothing in this section affects any contractual right of a private agency to refuse or terminate a placement.

This means that it is only indirectly that the court will order an out of state placement for a child. If the agency's plan is to place the child in a substitute care with a relative in another state the court will review the information about this particular relative before approving the plan but in the end the court is not approving anything more than the type of placement, the "level of care" as it is sometimes called. The choice of the specific substitute care provider is within the purview of DHS. Should two out of state relatives meet the legal requirements for placement the court cannot choose between them unless it does so by finding that placement with one or the other is contrary to the child's best interest or violates the child or parent's rights.

The court does, however, retain the ultimate authority to determine the permanent plan for the child. ORS 419B.476(5)(b) and by so doing can have influence over the particular placement of the child. Again, even though it is limited, by terms of the statute, to choosing the type of placement, the characteristics of the specific placement contemplated can drive the court's determination of whether the plan is in the best interest of the child, whether it violates the child's or the child's parents rights.

Throughout the life of the case the agency makes decisions about placement of the child, both temporary and permanent, and the court has the responsibility to review such decisions, within this framework, as they are made.

There are specific legal requirements, attached to federal reasonable efforts findings, that the court ensure that the agency is considering interstate options in making placement decisions. When the case plan is presented, and a permanent plan and concurrent plans are designated, the court returns to the inquiries noted above and is required to make specific findings about whether the agency gave adequate consideration to relative and out of state placement. ORS 419B.476 (2)(c). Even if the permanent placement is designated to be return to parent efforts on developing concurrent plans remain a matter for review. ORS 419B.476(3)(e). The court reviews concurrent plans, whether involving interstate placement or not, to ensure they are developed as far as possible without interfering with the primary plan.

## 2. Oregon Administrative Rules

In addition state statute, the Oregon Administrative Rules (OAR), adopted pursuant to the state's ratification of the Interstate Compact on the Placement of Children ("the Compact"), involves the court in the interstate placement process. This role is, however, limited.

First, the court is responsible for generating the orders and judgments that are listed in OAR 413-040-0270 as a necessary part of an application for placement. These judgments and orders are either those establishing jurisdiction over the child or

terminating the rights of the child's parents. Neither of these orders, however, is likely to create problems for timeliness of interstate placements.<sup>2</sup>

A court order or judgment is also necessary under OAR 413-040-0280(6) in the circumstance in which a child is being returned to a "non-offending" parent out of state. The agency may do so long as there is no court jurisdiction over the child. If such jurisdiction has been established there must be an order entered ending that jurisdiction.

The OAR is for the most part silent about the ability to seek court review of an agency's failure to follow these rules. OAR 413-040-0205 provides that an approved adoptive family residing outside of Oregon may seek relief through the "contested case" process under Oregon Administrative Procedures Act. It may seek appellate review of any order resulting from such a contested case. The grounds for the appeal, however, are limited to an allegation that the adoption placement was denied because the prospective adoptive parents lived outside the state.

### 3. The Interstate Compact

The Compact itself involves the court in provisions, in Article IV, regarding illegal placements. This is limited to circumstances in which placement of a child in a receiving state does not comply with the compact.<sup>3</sup>

Regulation 7 of the ICPC Regulations promulgated by the Association of Administrators of the Interstate compact provides a means for expediting interstate placement under certain circumstances in which the courts play a key role.

### 4. Oregon Appellate Law

Oregon appellate case law deals exclusively with such issues as whether the court is subject, in placing a child out of the state, to the provisions of the Compact, which it has been found to be.

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<sup>2</sup> One problem related to a termination judgment, however, was related by the Interstate Compact Administrator for Oregon DHS. The regulations require a copy of an order terminating parental rights. Some states will not do an adoption home study without such an order, even though such a study is requested in anticipation of a termination. In such cases a study must begin after the termination, which delays the placement, assuming it is approved, by the length of time necessary to go through that approval process.

<sup>3</sup> "Such violations may be punished...in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall **constitute a full** and sufficient ground for suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place, or care for children."

## 5. Oregon Rules of Court

No state or local court rules bear on interstate placement of children.

### **B. Effectiveness of Courts in Expediting Interstate Placement of Children**

The hearing process is the context in which the above findings are made and the mandates of this assessment are to evaluate how the court can fulfill these responsibilities in regard to its ability to have access to sufficient information upon which to base these findings.

The legal infrastructure that the Program Instruction requires the states to consider is in place in Oregon. It has not been in for very long, however. For the most part Oregon courts have the ability to do that which the Program Instruction contemplates as necessary to expedite interstate placements. However, in regard to sharing information with courts outside of Oregon, there are some issues. Chief among these, as described below, is the fact information retention policy in the courts varies from county to county

#### 1. Sharing Information With Out-Of-State Courts

Oregon has adopted the federally mandated language regarding information sharing with out-of state-courts. The Oregon statute governing access to information in the hands of the court is ORS 419A.255. A new subsection to the that statute, added during the 2007 legislative session, provides

(11) The court shall cooperate in the sharing of information with a court in another state to facilitate an interstate placement of a child or ward.

This can be misleading, however. Although the practice varies widely from one judicial district to another, Oregon courts do not generally maintain possession of a great deal of information that is generated in dependency cases. Aside from what appears in pleadings, motions and judgments the information that the court sees in a dependency case is in the nature of evidence. Evidence in Oregon is generally not stored by the court. If it is needed for an appeal the parties are responsible to return it to the court for the purpose of creating the record.

There are two types of files that ORS 419A.255 contemplates being kept in dependency cases. The first of these is the "legal file."

The clerk of the court shall keep a record of each case, including therein the summons and other process, the petition and all other papers in the nature of pleadings, motions, orders of the court and other papers filed with the court, but

*excluding reports and other material relating to the child, ward, youth or youth offender's history and prognosis.*

ORS 419A.255(1), emphasis added.

All courts keep a legal file. Notwithstanding the language of the statute emphasized above some courts keep "history and prognosis" information in the legal file.

The statute contemplates a separate file for this history and prognosis information. Commonly called a "social file" the statute describes it as containing:

Reports and other material *relating to the child, ward, youth or youth offender's history and prognosis* are privileged and, except at the request of the child, ward, youth or youth offender, may not be disclosed directly or indirectly to anyone other than the judge of the juvenile court, those acting under the judge's direction, service providers in the case and the attorneys of record for the child, ward, youth or youth offender or the child, ward, youth or youth offender's parent, guardian, court appointed special advocate, surrogate or person allowed to intervene in a proceeding involving the child, ward, youth or youth offender. Reports and other material relating to a youth offender's history and prognosis in cases under ORS 419C.005 may be disclosed to the superintendent of the school district in which the youth offender resides. The service providers in the case, school superintendents and attorneys are entitled to examine and obtain copies of any reports or other material relating to the child, ward, youth or youth offender's history and prognosis. Any service provider in the case, school superintendent or attorney who examines or obtains copies of such reports or materials is responsible for preserving their confidentiality. A service provider or school superintendent who obtains copies of such reports or materials shall return the copies to the court upon the conclusion of the service provider's or superintendent's involvement in the case.

ORS 419A.255(2), emphasis added.

Few courts actually have such files, any more, at least officially. These files were originally kept, by county juvenile departments which, when the statutes were written, were a part of the court, itself. When the courts, creatures of the counties at the time these statutes were written, became part of the current state court system the juvenile departments, and the social files, were "left behind" at the county level. It is unclear whether, today, such social file as exist is "property" of the state court or the juvenile department.

Since most juvenile departments are not very involved in the dependency system any more, notwithstanding archaic (at least in practice) statutory language to the contrary. DHS, a state agency, now fulfills most of the roles in the dependency system still assigned by statute to the juvenile departments and these latter, county, agencies largely attend to juvenile delinquency matters. Very little in any juvenile department files that could be characterized as social files, at least in most counties, will relate to dependency cases.

That is not to say that files with this kind of information are not kept. Some courts and some judges have files with reports previously submitted by DHS, CASAs, attorneys and others. These are unofficial files and are kept for the purpose of review prior to hearings so that judges that have previously heard the case can refresh their memories or judges who have not previously heard the matter to which they refer can familiarized themselves with the issues.

Also, the emphasized language in ORS 419A.255(2) creates an important distinction; between information about the children involved in the case and the unmentioned parents and other adults. There is no statutory provision governing the information about adults that might be in the hands of the court. Yet, this information is probably confidential under state open records law and the confidentiality provisions of the Child Protection and Treatment Act.

The upshot of this is that a court from outside Oregon that requests the information about a dependency case from Oregon courts will likely be disappointed at what will be sent. Clearly, the legal file—containing judgments, motions, pleadings and the like—will be forthcoming. Most of the other information pertaining to the case will likely not be within control of the court, except in those situations where some other files than those described in the statute are being kept.

One issue that will arise if there are such files will be the confidentiality that adheres to some records. For example, substance abuse treatment records protected under 42 USC present questions. If these are in the hands of the courts there are limits on re disclosure. It may or may not be true that the out-of-state court is seeking these records in a case of its own that is essentially a continuation of the Oregon case in which the release was signed. In that case the release probably works to allow the Oregon court to send them along. If not it probably will not.

Also, these substance abuse records may be in the hands of the court due to exceptions to the federal law that allow them to be involuntarily released to the court. Unless the parties to an out-of-state court can make the same showing regarding the balance of child's best interest and the interest in anonymity in substance abuse treatment that Oregon parties were able to make such as to compel their release the

reports, notwithstanding the wording of the new statutory language cannot probably be forwarded.

A final consideration is that ORS 419A.255(2) makes the social file information “privileged.” Although that term generally is generally read, in this context, to mean “confidential,” the actual definition of the term may limit its use—at least if gained from the court--in court proceedings, in Oregon or elsewhere.

In general, then, the Oregon statute is adequate to ensure that most information that is in the hands of the Oregon court can be provided to an out-of-state court in regard to a case in which they are relevant. Generally speaking, however, Oregon courts have little documentary information they can share with courts from other states in dependency cases and, notwithstanding the sweeping language of the new provision of ORS 419A.255(11), there are some questions about whether there are limits on sharing what the court might have from time to time in its possession.

## 2. Obtaining Information and Testimony from Agencies and Parties In Other States Without Requiring Interstate Travel

Again, the federally mandated language authorizing this was added to Oregon law during the 2007 session. ORS 419B.918(3) provides:

419B.918 Manner of Appearance. (1) Notwithstanding ORS 419B.815, 419B.816, 419B.819 and 419B.820, on timely written motion of a person showing good cause, a court may permit the person, instead of appearing personally, to participate in any hearing related to a petition alleging jurisdiction under ORS 419B.100, a petition to establish a permanent guardianship under ORS 419B.365 or a petition seeking termination of parental rights under ORS 419B.500, 419B.502, 419B.504, 419B.506 or 419B.508 in any manner that complies with the requirements of due process including, but not limited to, telephonic or other electronic means.

...

(3) In any proceeding that involves the interstate placement of a child or ward, the court may:

- (a) Permit a party from outside this state to provide information, testify or otherwise participate in the proceeding in any manner the court designates, provided the party complies with subsection (1) of this section, if applicable;
- (b) Permit an attorney from outside this state representing any party to participate in the proceeding in any manner the court designates; and
- (c) Obtain information or testimony in any manner the court designates from a state or private agency located in another state.

There has been discussion among judges and lawyers about ORS 419B.918(3)(c). For the most part this language is not understood to purport to give Oregon courts any jurisdiction over state or private agencies located in other states such that it enables the

Oregon judge to compel such agencies to provide any information. It is thought that this language makes resolution of issues such as authentication and chain of custody within the discretion of the court.

3. Permitting the Participation of Parents, Children and Other Necessary Parties and Attorneys in Cases Involving Interstate Placement Without Requiring Their Interstate Travel

Prior to the inclusion of this language in the statute Oregon courts in dependency cases routinely included parties from out of state by telephone and, increasingly, video, technology. All Oregon court houses have both kinds of technology available. Most often it has been parents, Indian tribes (and experts) who have appeared by telephone, and these are probably the parties to the case who will most often be located out of state.

Although out of state Indian tribes may have their own attorneys representing them in an Oregon case, parents who are out of state are generally represented by Oregon counsel, appointed attendant to the case here. It is not beyond possibility that an out of state attorney would be representing a parent who is also out of state, and our new statutory language permits them to appear and participate in such situations.

In general, the legal infrastructure contemplated by the Program Instruction is in place in Oregon such that courts can share information with courts in other states, must allow agencies and individuals, as well as their counsel, to participate in hearings and provide information and testimony without traveling to Oregon.

**C. Other Effectiveness Factors Considered  
(Survey of Self Identified “Juvenile Judges”)**

Various technical support documents have been provided in anticipation of this assessment that suggest means judges can expedite interstate placement of children. JCIP staff analyzed most of these as being beyond the current power of an Oregon court and so designed a judicial survey to determine whether that opinion is shared by the judges and whether, currently available to them or not, they believed that these suggestions would be useful.

The JCIP staff maintains a list of judges who have attended conference and training events and who hear dependency cases, either regularly or on a time- to-time basis. These are judges who asked to be on this list through which they receive various kinds of information of use to those hearing dependency cases and from time to time are asked to provide various kinds of input “from the field.”

For this assessment these judges were asked to take a survey designed to discern their views on a number of ideas that have been advanced to improve their ability to expedite interstate placement and to on how well they feel trained and equipped to fulfill the requirements they currently have in regard to interstate placement of children.

The seventy-some judges currently on this list were contacted and given access to the web address of the survey. Twenty one of them answered at least one question. The raw data gleaned from this poll is attached to this assessment at Appendix A. An analysis of this data follows.

### 1. Interstate Conferring Between Judges in Dependency Cases

Very rarely are Oregon courts involved in a dependency case in which there is a proceeding ongoing in another state. Most frequently when that occurs, the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) applies. That act (codified at ORS 109.701 et seq) provides authority and procedures to make such conferring fruitful.

The judges were asked about the suggestion that an Oregon judge could informally contact a colleague in a receiving state when a home study is delayed. That receiving state judge could be asked to make inquiries with the receiving state's child welfare agency about the progress of the approval process.

Thirteen Judicial respondents (of 19 who responded to this question, question 6, on this survey) said that they would consider calling a judge in the receiving state to ask them to query their child welfare agency about an overdue approval.

Fifteen of these 19 judges responded that, if asked to do so by a judge from out of state, they would phone Oregon's DHS to ask about progress in completing the approval process on this out-of-state case.

When asked whether this seemed like a good idea the Oregon Compact Deputy Administrator, at the Department of Human Services, said that it would be more effective for a judge in Oregon to ask the caseworker assigned to the case to contact the Oregon Compact office to in turn contact and make inquiries to the Compact Administrator in the other state.

Although there is no apparent authority in the Oregon statutes to allow a judge to make such a call, and what is learned could be deemed an ex parte contact, the response of the judges to this question indicate a need to explore the possibility of creating such authority in statute. Along with some of the other suggestions about which the judges were polled (see below), this one will be a part of a conversation over the next year about possible statutory change.

## 2. Receiving State Court Jurisdiction to Review Approval Efforts on Request Pursuant to the Compact and Expanding Transfer of Jurisdiction to Receiving State After Placement

The technical support materials suggest that states could give their courts jurisdiction to review the performance of their own state's agency responsible for the approval process. If, say, Oregon is the receiving state and the home study decision is not made in 60 days, a judge in the sending state could petition an Oregon court to schedule a joint hearing to allow the Oregon's child welfare agency to explain to all concerned what the problems are that are delaying the home study. Again, this would require legislation in Oregon to make such jurisdiction possible, except in so far as it is done within the framework of Regulation 7, pursuant to the Compact.

About half of the 19 respondents to this question answered that such a process should be available to judges in states that would grant reciprocity to Oregon judges.

Allowing a receiving state court to review the performance of its own child welfare agency in the approval process may invoke the UCCJEA; as such a review might well constitute a "custody proceeding." It would be similar to a proceeding begun in the receiving state when an interstate placement there is disrupted and it is necessary to begin such a proceeding, notwithstanding the sending state's continued jurisdiction over the case, to protect the child temporarily.

## 3. Sending State Challenges to Receiving State Approval Decisions

The foregoing ideas are closely related to suggestions that processes should be created to give parties in the sending state a meaningful way to contest decisions in the receiving state that do not approve a placement.

Only 15% of responding judges (three of 19) believe that there is currently legal authority for an Oregon court to hold such a hearing to challenge disapproval by DHS. About 50% of judges believe, however, that such authority should exist, although three of the nine so responding qualified their approval by stipulating that the decision would have to have weight in the receiving state, that it become a part of the Compact and therefore available in all states, or that there were clear standards and that agencies had clear directions regarding their responsibilities.

## 4. Increasing Transfer of Custody and Wardship/Jurisdiction in Interstate Cases

Another reform examined involved expansion of transfer of jurisdiction of cases to the receiving state such that, at the time of the interstate placement, or in the normal course at some time thereafter, the receiving state should become the "home state" of the child.

Asked three questions about transfer of such cases, 88% (15 of 17) believed that there were cases in which it is appropriate to transfer jurisdiction upon placement in another state, 100% (17 of 17) believed that such transfer would be appropriate at some time after the placement is made, and 50% (7 of 14) responded that there were cases in which it would never be appropriate to transfer the case.

These answers were conditioned upon factors such as how many parties to the case reside in the receiving state, whether that state is to become the child's permanent home, whether passing time has shown that the placement is stable and secure, whether the transfer is available on a reciprocal basis.

In the main, judges are interested in further examination of these suggested ways to expand the role of judges in interstate placement.

#### 5. Judicial Training and Access to Information in Interstate Compact Cases

Along with issues related to expanding the Oregon judges' role in interstate placement cases, answers to the judicial survey indicated need for training and for development of information flow.

Only 35% (7 of 20) judges believe that they have adequate training to understand the factors and the process that DHS uses to determine whether interstate placement is appropriate in a particular case (question #1), while only half (10 of 20) indicated that they believe they get adequate information to determine whether the agency made reasonable efforts in its determination of the appropriateness of interstate placement in a particular case (question # 2). Only 33% (6 of 18) responded that they have enough training to determine whether the agency made reasonable efforts to timely prepare an application for interstate placement (question #3).

In regard to whether judges believe they generally receive adequate information to make necessary findings in review and permanency hearings for children placed by Oregon in other states, 58% answered positively (10 of 17) (question 11d), and 55% (10 of 17) indicated they had encountered difficulties other than lack of information in reviewing cases of Oregon children placed in other states (question 11e).

#### 6. Active Involvement of Judges in Requests for Timely Placement Evaluations

Albeit from a small sample, the suggestions that judges should be more actively involved in requests for timely evaluations of placements in other states is positive. Oregon law, and the laws of the states with which Oregon deals, seem to be designed to intentionally limit such involvement. As stated above, Oregon law precludes the court being involved in the choosing of placements for children, aside from reviewing such placements for appropriate level of care (foster care, residential treatment, etc.)

and when there is controversy as to whether the particular placement is in the best interest of the child or family. In no case is an Oregon judge permitted to choose a specific placement for a child.

Nor does the current Compact seem to include any legal mechanisms for court oversight or participation in the receiving state's child welfare agency process of considering whether to approve a requested placement.

Oregon law, and the current Compact, also seem to limit the court's role in interstate placement to reviewing the timeliness with which its own child welfare agency assembles the request for approval of placement in the other state, the efforts its own agency makes to stay in touch with and support the receiving state's decision making, and, once approval is made, the timeliness of its own court in following up and completing the placement.

While it may seem likely that this will remain the role of the court, at least until a broader legal framework is adopted than Oregon, itself, can create, the interest level of the judges is such that a conversation about these practices is indicated. The JCIP staff will use the occasion of the annual "Through the Eyes of a Child" conference to begin this process.

With that likelihood of a long and complicated discussion of such an expansion of the judicial role in mind, JCIP intends to support its courts in improving their performance in their role as currently defined role in ways presented below.

#### **D. Plan for Improvement of Court Performance**

- 1) Educate the bench on court's role in cases subject to the Compact, including Regulation 7 which allows for expediting cases under certain circumstances at the beginning of the request process and es later.
- 2) Develop training materials and resources to enable the court to improve its performance in fulfilling its role. This necessitates understanding how compact cases are handled by the agency, including:
  - a) Application assembly process
  - b) Home study/approval process
  - c) Post approval implementation process

- 3) Collaborate with DHS in monitoring of data regarding approval of placements in of children in Oregon from out of state<sup>4</sup>
- 4) Collaborate with DHS regarding protocols for identifying, exploring, developing and reviewing out of state placements during the while the permanent plan remains return to parent.
- 5) Develop docketing practices such that reviews are held at milestone anticipated a Compact case and not in some standard time interval.
- 6) Collaborate with DHS in efforts to develop border agreements with Washington and Oregon, and mobilize judges to support and encourage establishing these agreements.
- 7) Educate all parties to dependency cases on the Compact and how they can participate in the process to eliminate such delays as possible.

Action Plans will be developed utilizing the “Eyes of the Child” Conference and the fall 2008 Road Show for the training portions of this agenda. Efforts through September 30, 2008 will be reported upon in the Program Assessment to be submitted by December 31, 2008.

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<sup>4</sup> DHS has collaborated in this effort to have developed data reports that make it possible for the court to identify and track ICPC cases, both those in which Oregon is a sending and a receiving state. Although the court has no role in this monitoring or oversight, JCIP is working with the agency to ensure that if there are delays in one location or another the court can analyze its own process to see if problems can be identified and cured, as well as engaging the local model court team in an effort to improve performance.

## ICPC and Judges Survey

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## ICPC and Judges Survey

ICPC and Judges		
<b>1. Do you think you have had adequate training to understand the factors and the process DHS uses to determine whether interstate placement is appropriate in a particular case?</b>		
Answer Options	Response Percent	Response Count
yes	35.0%	7
no	65.0%	13
<i>answered question</i>		<b>20</b>
<i>skipped question</i>		<b>1</b>

## ICPC and Judges Survey

ICPC and Judges		
2. Do you think that you get adequate information to make this reasonable efforts finding regarding the efforts DHS has made to determine whether interstate placement is appropriate?		
Answer Options	Response Percent	Response Count
yes	52.6%	10
no	47.4%	9
<i>answered question</i>		<b>19</b>
<i>skipped question</i>		<b>2</b>

## ICPC and Judges Survey

ICPC and Judges

**3. Do you believe you have enough training to determine whether DHS has made reasonable efforts to prepare a request to a "receiving state" to approve a proposed placement under the Compact?**

Answer Options	Response Percent	Response Count
yes	33.3%	6
no	66.7%	12
<i>answered question</i>		<b>18</b>
<i>skipped question</i>		<b>3</b>

## ICPC and Judges Survey

ICPC and Judges		
<b>4. Do you believe that if Oregon's approval as the "receiving state" is overdue Oregon courts should have jurisdiction, upon petition from a judge in the "sending state" to open a case to review efforts of DHS to complete the study?</b>		
Answer Options	Response Percent	Response Count
yes	52.6%	10
*yes, so long as...	21.1%	4
no	5.3%	1
*no, unless...	5.3%	1
don't know	15.8%	3
* (please specify):		6
<b><i>answered question</i></b>		<b>19</b>
<b><i>skipped question</i></b>		<b>2</b>

Number	Response Date	* (please specify):
<b>1</b>	<b>04/30/2008 12:37:00</b>	We get reciprocal treatment and service from other states that we need to be responsive in a timely fashion to us.
<b>2</b>	<b>04/30/2008 14:51:00</b>	Judges get the necessary training about the process and the responsibility of DHS.
<b>3</b>	<b>04/30/2008 17:26:00</b>	The situation is recipricol, so that we can get the same service from other "receiving states"
<b>4</b>	<b>04/30/2008 18:15:00</b>	I do not believe judges should open a case to review efforts of DHS as I understand the question. We may review what they have done in the juvenile proceeding and if we get a request from another judge, we can set a hearing at which time DHS has to show us what they done as a receiving state and we can then enter an appropriate order, either finding DHS has acted reasonably or ordering DHS to take certain steps to comply. I realize this may be getting to the same result that the question is asking, but I believe it is approaching it in a manner courts should operate. The question implies that we perform what an administrator should be doing rather than us reviewing what has been done and what needs to be done to finish the process.
<b>5</b>	<b>04/30/2008 21:11:00</b>	Involvement of the court is the only means by which an out of state agency can ensure that the homwe study is completed in a timely manner.
<b>6</b>	<b>05/01/2008 21:37:00</b>	We are given some specific criteria about what is needed to complete the homestudy and whether the information that Oregon needed was sent by the sending state.

## ICPC and Judges Survey

ICPC and Judges

**5. Do you believe you have had enough training to determine whether DHS has made reasonable efforts to complete placement arrangements after the "receiving state" has approved placement of the child in the studied home?**

Answer Options	Response Percent	Response Count
yes	36.8%	7
no	63.2%	12
<i>answered question</i>		<b>19</b>
<i>skipped question</i>		<b>2</b>

## ICPC and Judges Survey

ICPC and Judges		
<b>6. Would you as the judge in the "sending state" consider calling a judge in the "receiving state" to ask them to query their child welfare agency about the delay in the approval of a placement on a case you are hearing?</b>		
Answer Options	Response Percent	Response Count
yes	68.4%	13
*yes, so long as...	21.1%	4
no	5.3%	1
*no, unless...	5.3%	1
don't know	0.0%	0
	*(please specify):	5
	<i>answered question</i>	<b>19</b>
	<i>skipped question</i>	<b>2</b>

Number	Response Date	*(please specify):
<b>1</b>	<b>04/30/2008 12:40:00</b>	Have done so and sent letters to the head of the child welfare agency in the state- judges are not helpful on this - they just give me the name and number of the child welfare agency - my letters are routinely ignored - as there is no consequence - the better approach is to get child welfare to do to with their counterparts.
<b>2</b>	<b>04/30/2008 15:04:00</b>	That judge had the ability to expedite the process.
<b>3</b>	<b>04/30/2008 17:29:00</b>	So long as we have accurate information as to who the appropriate judge is who should be contacted in that state.
<b>4</b>	<b>04/30/2008 18:19:00</b>	As long as there is a notice requirement to all parties that I will doing so and that all parties can be present during the call. Similar to requirement under UCCJEA. The inquiry that should be made should be in writing with a request that a written response come back in a specified number of days with copies to all parties and a chance to then set a hearing.
<b>5</b>	<b>05/02/2008 18:45:00</b>	I had adequate information about the efforts of my CW agency to facilitate the completion of the study.

## ICPC and Judges Survey

ICPC and Judges		
<b>7. If a judge from a "sending state" called upon you for such assistance would you consider calling DHS here in Oregon to ask about their progress in completing the approval in that judge's case?</b>		
Answer Options	Response Percent	Response Count
yes	78.9%	15
*yes, so long as...	10.5%	2
no	5.3%	1
*no, unless...	5.3%	1
don't know	0.0%	0
* (please specify):		3
<i>answered question</i>		<b>19</b>
<i>skipped question</i>		<b>2</b>

Number	Response Date	* (please specify):
<b>1</b>	<b>04/30/2008 12:40:00</b>	I knew which branch had it - often times that takes forever to figure out - and you often get the wall of confidentiality from DHS.
<b>2</b>	<b>04/30/2008 14:53:00</b>	I would not call them. I would schedule a hearing in open court and on the record and make the inquiries there and then.
<b>3</b>	<b>04/30/2008 18:19:00</b>	See 6 above.

## ICPC and Judges Survey

### ICPC and Judges

**8a. Another suggested reform to improve the court process in cases under the Compact would allow parties in a "sending state" to have an opportunity to contest a "receiving state's" disapproval of a requested placement.□**

**Question: Do you think there is authority for an Oregon court to hold a hearing to afford out-of-state parties the opportunity to make such a challenge to a decision by DHS disapproving a request for placement here?**

Answer Options	Response Percent	Response Count
yes	15.8%	3
no	84.2%	16
<i>answered question</i>		<b>19</b>
<i>skipped question</i>		<b>2</b>

## ICPC and Judges Survey

ICPC and Judges		
<b>8b. If not, do you believe there should be such authority?</b>		
Answer Options	Response Percent	Response Count
yes	33.3%	6
*yes, so long as	16.7%	3
no	38.9%	7
*no, unless	0.0%	0
no opinion	11.1%	2
* (please specify):		5
<b><i>answered question</i></b>		<b>18</b>
<b><i>skipped question</i></b>		<b>3</b>

Number	Response Date	* (please specify):
<b>1</b>	<b>04/30/2008 12:46:00</b>	As long as the decision had some authority/wieght in the receiving state.
<b>2</b>	<b>04/30/2008 14:56:00</b>	Only if available in every Compact State.
<b>3</b>	<b>04/30/2008 17:14:00</b>	Shoving it down the receiving state's throat will never end in a good result.
<b>4</b>	<b>05/01/2008 21:45:00</b>	I think that the state where the approval/disapproval occured should have the hearing.
<b>5</b>	<b>05/02/2008 18:55:00</b>	The standard is clear and the agencies have clear direction regarding their responsibilities.

## ICPC and Judges Survey

ICPC and Judges		
<b>8c. If so, do you believe there is any basis for such a challenge other than a failure by the "receiving state" to apply the same standards for approval of a placement for a child from out of state that is used to approve a placement for a child from inside the state?</b>		
Answer Options	Response Percent	Response Count
*yes. These include...	15.4%	2
no	84.6%	11
* (please specify):		2
<b><i>answered question</i></b>		<b>13</b>
<b><i>skipped question</i></b>		<b>8</b>

Number	Response Date	* (please specify):
1	04/30/2008 14:56:00	Timely action.
2	04/30/2008 18:28:00	See Middleton v. DHS, (slip opinion, C of A, April 23, 2008). I believe this case certainly give authority to look at what DHS does through a other than a contested case proceeding and would allow a broader hearing than just not applying the same standards. I do think there ought to be a uniform law that sets standards for all states in these types of cases.

## ICPC and Judges Survey

ICPC and Judges		
8d. If not, do you believe there should be other grounds?		
Answer Options	Response Percent	Response Count
* yes. These should include...	15.4%	2
no	84.6%	11
* (please specify):		2
<i>answered question</i>		<b>13</b>
<i>skipped question</i>		<b>8</b>

Number	Response Date	* (please specify):
<b>1</b>	<b>04/30/2008 14:56:00</b>	Timely action.
<b>2</b>	<b>05/01/2008 01:50:00</b>	State laws which preclude considering certain things that the sending state is not subject to.

## ICPC and Judges Survey

### ICPC and Judges

**9a. Do you think there is authority for an Oregon court to participate in a joint hearing, involving itself and the court of another state as either "sending" and "receiving states" to hear such challenges?**

Answer Options	Response Percent	Response Count
yes	21.1%	4
no	78.9%	15
<i>answered question</i>		<b>19</b>
<i>skipped question</i>		<b>2</b>

## ICPC and Judges Survey

ICPC and Judges		
<b>9b. If not, you think there should be?</b>		
Answer Options	Response Percent	Response Count
yes	41.2%	7
*yes, so long as...	5.9%	1
no	41.2%	7
*no, unless...	0.0%	0
no opinion	11.8%	2
* (please specify):		1
<b><i>answered question</i></b>		<b>17</b>
<b><i>skipped question</i></b>		<b>4</b>

Number	Response Date	* (please specify):
<b>1</b>	<b>04/30/2008 12:46:00</b>	There was a way to easliy figure out who to have this conference with - and the other state would timely cooperate.

ICPC and Judges Survey

ICPC and Judges		
<p><b>10a. Under current law an Oregon court having jurisdiction of a child welfare case can disapprove a proposed or current substitute care placement in Oregon because that placement is so inappropriate as to not be in the best interest of the child or parents (ORS 419B.349).</b></p> <p><b>Question: Do you believe, aside from this provision there is any basis for an Oregon court to hear a challenge from parties to the case to any placement proposed or made by DHS outside of Oregon under the ICPC?</b></p>		
Answer Options	Response Percent	Response Count
*yes, these include...	21.1%	4
no	78.9%	15
* (please specify):		5
<i>answered question</i>		<b>19</b>
<i>skipped question</i>		<b>2</b>

Number	Response Date	* (please specify):
1	04/30/2008 12:46:00	The review is not limited to placements in general - it is was then wardship would end when the child moved.
2	04/30/2008 14:56:00	It is no different.
3	04/30/2008 23:11:00	It should be up to the state where the placement is proposed.
4	05/01/2008 01:50:00	Look at reasonable efforts related to parents and/or relative placements.
5	05/02/2008 18:55:00	Though the above statement is not a completely accurate summary of the law.

## ICPC and Judges Survey

ICPC and Judges		
<b>10b. If not, should there be other bases?</b>		
Answer Options	Response Percent	Response Count
*yes, these include...	35.7%	5
no	64.3%	9
* (please specify):		2
<i>answered question</i>		<b>14</b>
<i>skipped question</i>		<b>7</b>

Number	Response Date	* (please specify):
<b>1</b>	<b>04/30/2008 14:41:00</b>	The 'receiving state' should have the ultimate say.
<b>2</b>	<b>04/30/2008 17:25:00</b>	Timeliness of potential out of state placement. Presence of siblings/relatives in this state, or the other. Educational considerations.

## ICPC and Judges Survey

### ICPC and Judges

**11a. Another suggested reform to improve the condition of children placed under the Compact would be to increase the number of cases in which jurisdiction and legal custody pass to the state in which the child is placed.**

**Question: Are there circumstances in which you think it would be appropriate to transfer jurisdiction of the case and legal custody of the child to the receiving state when placement there is made?**

Answer Options	Response Percent	Response Count
*yes, if...	88.2%	15
*no, unless...	11.8%	2
* (please specify):		12
<i>answered question</i>		<b>17</b>
<i>skipped question</i>		<b>4</b>

Number	Response Date	* (please specify):
1	04/30/2008 12:51:00	After some time has gone by to be sure it will work and presuming the child had some connections to that state if the placement did disrupt later to my knowledge there is NO ability to do this now - so any change is an increase and welcomed.
2	04/30/2008 14:58:00	It is reciprocal. All member states must do the same.
3	04/30/2008 15:09:00	The plan was for the child to remain in the receiving state for an extended period.
4	04/30/2008 17:28:00	Agency/court in receiving state are willing, and placement is secure.
5	04/30/2008 17:35:00	It is intended that the child permanently reside in the "receiving state".
6	04/30/2008 18:12:00	Most of the parties are in the receiving state.
7	04/30/2008 18:46:00	In all cases as long as there is a provision that returns the case if the placement fails and the child has to be returned and I believe there should be time lines for such transfers so the case does not sit in limbo while the transfer is taking place.
8	04/30/2008 21:35:00	The placement is with a parent in that state.
9	04/30/2008 23:21:00	Circumstances warrant.
10	05/01/2008 00:52:00	In all circumstances to ensure that the child's care remains appropriate and consistent, to ensure that if the out of state placement is a relative placement that appropriate parental, sibling and relative placement is occurring, or not occurring as appropriate.
11	05/01/2008 01:51:00	It will be a permanent placement.
12	05/01/2008 21:52:00	Under circumstances where the transfer state could properly assume jurisdiction under the UCCJEA. I would advocate that transferring jurisdiction follow placement by at least 6 months.

## ICPC and Judges Survey

ICPC and Judges		
<b>11b. Are there circumstances in which you think it would be appropriate to transfer jurisdiction of the case and legal custody of the child to the "receiving state" at some time after the initial placement is made?</b>		
Answer Options	Response Percent	Response Count
*yes, if...	100.0%	17
*no, unless...	0.0%	0
	* (please specify):	14
	<i>answered question</i>	<b>17</b>
	<i>skipped question</i>	<b>4</b>

Number	Response Date	* (please specify):
<b>1</b>	<b>04/30/2008 12:51:00</b>	The placement is with relatives or otherwise intended to be permanent.
<b>2</b>	<b>04/30/2008 14:58:00</b>	It is case specific, that is, it depends on the facts of the case.
<b>3</b>	<b>04/30/2008 15:09:00</b>	Same as above.
<b>4</b>	<b>04/30/2008 17:28:00</b>	Placement not necessarily secure.
<b>5</b>	<b>04/30/2008 17:35:00</b>	See above.
<b>6</b>	<b>04/30/2008 18:12:00</b>	Most of the parties are in the receiving state.
<b>7</b>	<b>04/30/2008 18:46:00</b>	See 11a.
<b>8</b>	<b>04/30/2008 21:35:00</b>	The placement is with a parent in that state.
<b>9</b>	<b>04/30/2008 23:21:00</b>	Long term placement.
<b>10</b>	<b>05/01/2008 00:52:00</b>	See above.
<b>11</b>	<b>05/01/2008 01:51:00</b>	See above.
<b>12</b>	<b>05/01/2008 21:13:00</b>	Both parents live in "receiving state" and services are available and state is willing.
<b>13</b>	<b>05/01/2008 21:52:00</b>	Per UCCJEA - 11.a.
<b>14</b>	<b>05/02/2008 19:00:00</b>	When the child's parents are in the receiving state, when the child has been in the receiving state for a substantial period and there are no plans to return to the sending state.

## ICPC and Judges Survey

ICPC and Judges		
<b>11c. Are there circumstances in which you think it would never be appropriate to transfer jurisdiction of the case and legal custody of the child to a "receiving state?"</b>		
Answer Options	Response Percent	Response Count
*yes, so long as...	50.0%	7
*no, unless...	50.0%	7
* (please specify):		8
<i>answered question</i>		<b>14</b>
<i>skipped question</i>		<b>7</b>

Number	Response Date	* (please specify):
<b>1</b>	<b>04/30/2008 12:51:00</b>	Yes. See above and I fail to see the obvious nuances in these questions they all seem to be asking the same thing in this section.
<b>2</b>	<b>04/30/2008 14:58:00</b>	It is case specific, that is, it depends on the facts of the case.
<b>3</b>	<b>04/30/2008 17:35:00</b>	Where it is intended that the child may only be temporarily residing in the "receiving state".
<b>4</b>	<b>04/30/2008 18:46:00</b>	I do not think there should be an "unless." If there is such a concern about the transfer of the child, it should not take place, but once there is a transfer, comity requires us to assume the other state will do its job.
<b>5</b>	<b>04/30/2008 23:21:00</b>	Part of permanency plan.
<b>6</b>	<b>05/01/2008 00:52:00</b>	there is a concern that the receiving state cannot meet the child's needs for visitation or contact with a family member or other significant person.
<b>7</b>	<b>05/01/2008 21:52:00</b>	If a child's only parents reside in the sending state, I would not be in favor of transfer of jurisdiction to a different state. If the child's parents no longer reside in the sending state, are deceased, or their rights are terminated with no appeals pending, it might be appropriate to transfer jurisdiction.
<b>8</b>	<b>05/02/2008 19:00:00</b>	The placement is clearly temporary and the child's most significant connections are in the sending state.

ICPC and Judges Survey

ICPC and Judges

**11d. As a general rule, do you receive adequate information to make necessary findings in review and permanency hearing regarding children placed by Oregon in other states?**

Answer Options	Response Percent	Response Count
yes	58.8%	10
no	41.2%	7
<i>answered question</i>		<b>17</b>
<i>skipped question</i>		<b>4</b>

## ICPC and Judges Survey

ICPC and Judges		
<b>11e. Have you encountered difficulties other than lack of information in reviewing cases of children placed by Oregon in other states?</b>		
Answer Options	Response Percent	Response Count
*yes, including...	55.6%	10
no	44.4%	8
* (please specify):		7
<i>answered question</i>		<b>18</b>
<i>skipped question</i>		<b>3</b>

Number	Response Date	* (please specify):
<b>1</b>	<b>04/30/2008 12:51:00</b>	Delay-delay-delay; and unfair or unexplained denials - lots of subjective assertions that are not supported by facts and value judgments that seem inappropriate.
<b>2</b>	<b>04/30/2008 14:58:00</b>	Lack of face to face contacts and lack of verification of status of child and family.
<b>3</b>	<b>04/30/2008 15:09:00</b>	Lack of any specific information of the placement. All information provided is very general.
<b>4</b>	<b>04/30/2008 17:28:00</b>	Extreme delay. Difficulty gaining cooperation of receiving state agency.
<b>5</b>	<b>04/30/2008 18:46:00</b>	The questions you have been asking seem somewhat contradictory. Do I have enough training? No. The next question is do I get enough information. Yes. I would not make a finding if I felt I did not have enough information. Training would be helpful in determining whether I am getting sufficient information. I think the ICPC process takes an ungodly amount of time and we waste a lot of time waiting for it to finish. The Middleton case I cite above is a perfect example of the entire process.
<b>6</b>	<b>05/01/2008 21:13:00</b>	Legal assistance from receiving state.
<b>7</b>	<b>05/02/2008 19:00:00</b>	Communication problems, delays in access to services.

## ICPC and Judges Survey

### ICPC and Judges

**12a. Do you believe that when safety or other factors threaten a placement here of a child under the jurisdiction of the court in a "sending state" that Oregon courts have the authority to establish a concurrent jurisdiction so as to hold hearings, jointly with the "sending state" court, to consider and confer with the sending state court about what can be done to maintain the placement or whether remaining in Oregon is in the best interest of the child?**

Answer Options	Response Percent	Response Count
yes	44.4%	8
no	33.3%	6
don't have an opinion	22.2%	4
<i>answered question</i>		<b>18</b>
<i>skipped question</i>		<b>3</b>

## ICPC and Judges Survey

ICPC and Judges		
<b>12b. Do you believe that if Oregon opened a case under such a circumstance the Uniform Child Custody and Jurisdiction Enforcement Act (UCCJEA) process would apply?</b>		
Answer Options	Response Percent	Response Count
yes	55.6%	10
no	11.1%	2
no opinion	33.3%	6
<i>answered question</i>		<b>18</b>
<i>skipped question</i>		<b>3</b>

## ICPC and Judges Survey

ICPC and Judges		
<b>13a. Do you believe Oregon should be able to take jurisdiction in a case based on taking judicial notice of dependency findings previously made in another state if the allegations and findings are substantially similar to those required by Oregon law?</b>		
Answer Options	Response Percent	Response Count
yes	55.6%	10
*yes, so long as...	11.1%	2
no	22.2%	4
*no, unless...	11.1%	2
don't know	0.0%	0
* (please specify):		4
<i>answered question</i>		<b>18</b>
<i>skipped question</i>		<b>3</b>

Number	Response Date	* (please specify):
1	04/30/2008 12:54:00	So long as it was still true - this is a poorly worded question - if the question is - assume that a petition is filed alleging the child is a ward in another state - and nothing more - can wardship be established - if that is the question - answer no-If the question is that in a jurisdictional hearing can the court take judicial notice of another state's findings - HOW - you would have to see them - and to see them they would have to be certified and then you would not need to take judicial notice - maybe I miss this point.
2	04/30/2008 18:47:00	Not unless the judgment is properly registered in this state to give us jurisdiction and it might be a good idea to enact such a uniform rule in the states.
3	05/01/2008 21:55:00	The prior adjudication is very close in time to the new case and involves all the same parties - I am assuming that jurisdiction in the first case had been dismissed?
4	05/02/2008 19:01:00	Due process protections are and were in place when the prior findings were made.

## ICPC and Judges Survey

ICPC and Judges		
<b>13b. Do you believe that such a situation is covered by the UCCJEA?</b>		
Answer Options	Response Percent	Response Count
yes	22.2%	4
no	27.8%	5
no opinion	50.0%	9
<i>answered question</i>		<b>18</b>
<i>skipped question</i>		<b>3</b>

Strategy 3.2 -- State Court to implement recommendations from assessment of interstate placement of children.

Report on ICPC Assessment results at JCIP Conference; educate judges on recommendations	JCIP	Aug 08
Report on ICPC Assessment results during Road Show presentations	JCIP and DHS	Sep – Nov 08
Report of JCIP Advisory Committee about development of plan to implement reform; create work group	JCIP and CHS	Dec 08
Circulate draft proposal to implement recommendations; report at Advisory Committee Meeting	JCIP and DHS	Mar 09
Revise proposal in light of feedback received from Advisory Committee	JCIP and DHS	Apr – May 09
Circulate revised proposal to implement recommendations; report at Advisory Committee; Finalize	JCIP and DHS	Jun 09
Create training materials and curriculum	JCIP and DHS	Jun – Jul 009
Roll out plan at JCIP Conference	JCIP	Aug 09
Roll out plan during Road Shows; work with model court teams to implement plans	JCIP and DHS	Sep – Nov 09
Assess results of implementation plan using DHS data	JCIP and DHS	Jun 10