

2008 Road Show

**A Collaboration of the
Juvenile Court Improvement Project
Department of Human Services
Citizen Review Board
Local Model Court Teams**

Model Court: A Vehicle for Change

Timothy Travis, Staff Counsel for Juvenile and Treatment Courts Oregon Judicial Department

Permanency Planning

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Legal Issues and the Oregon Safety Model

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Interstate Compact on Placement of Children

Timothy Travis, Staff Counsel for Juvenile and Treatment Courts Oregon Judicial Department

“Discovering what works in the particular universe of any organization is the task of everyone in that organization. Most people want to dedicate their intelligence to discovering solutions that help their system work better. Life is attracted to order. People are attracted to figuring out how to make something happen.”

A Simpler Way

Margaret J. Wheatley and Myron Kellner-Rogers

2008 Road Show

Section One

Model Court: A Vehicle for Change

Timothy Travis
Staff Counsel for Juvenile and Treatment Courts
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“Everything participates in the creation and evolution of its neighbors. There are no unaffected outsiders. No one system dictates conditions to another. All participate together in creating their interdependence.”

A Simpler Way

Margaret J. Wheatley and Myron Kellner-Rogers

Model Court:

Strategies	Responsibility	Targeted Completion Date	Benchmarks
5.3 Develop JCIP Model Courts as a means of providing information on Data Analysis and Training Grants	JCIP, DHS, CRB	Completed	Data reports and education and training opportunities will be distributed for JCIP Model Court Teams during their meetings
		Aug-09	Develop and implement communication framework for Model Court Teams

WHAT IS AN OREGON MODEL JUVENILE COURT TEAM?

Oregon Model Juvenile Court Teams are loosely based on the National Council of Juvenile and Family Court Judges Child Victims Act Model Courts Project begun in 1992. The goal of both projects is to create changes in the ways juvenile court communities respond to child abuse and neglect allegations. Every local juvenile court can organize a team and choose what strategy they will use to better serve children and families involved in dependency proceedings. However, each team moves forward with a few common assumptions.

- **Oregon Model Court Teams are mission driven.** Strategies for improving responses to child abuse and neglect begin with a common understanding about the goal behind state intervention into the lives of children and families.
- **Oregon Model Court Teams are collaborative.** Teams are organized around local juvenile courts but will include decision makers from each profession that participates in juvenile court proceedings. Participants enter into the process intending that the changes will effect the way each agency interacts with the rest of the juvenile court community.
- **Oregon Model Court Teams are experimental.** Model Juvenile Courts are laboratories for discovering new ways to eliminate barriers to permanency. Some will work, some won't. Strategies for court improvement and existing systems are evaluated and revised on an ongoing basis.

Any juvenile court can have a Model Juvenile Court Team, regardless of where it is in its own court improvement plan - local courts may choose to work on engaging community stakeholders around a common mission and understanding of the roles and goals of juvenile court; other courts may organize to determine how to align court and stakeholder programs and resources to best address barriers to permanency. Courts who have engaged in local court improvement may find that the Model Juvenile Court program can help sustain changes and reforms the court has already started.

WHAT ARE THE COMPONENTS OF AN OREGON MODEL JUVENILE COURT?

1. A Model Court has a plan for responding to child abuse and processing dependency cases that is a collaboration between the court and community stakeholders and is based on a shared understanding of the mission of the Juvenile Court.
 - A Model Court has a team that consists of court staff, judges and community stakeholders with decision making ability that initiates and reviews court improvement plans. The team meets regularly, keeps minutes, sets goals for court improvement and evaluates progress.
 - A Model Court recognizes that juvenile court, child welfare and community stakeholder

systems are inter-related and that effective change will effect all systems.

- A Model Court can be described and evaluated through use of data (see attached questionnaire).
 - The Juvenile Court, participants and community stakeholders share a common understanding of the goals of juvenile court intervention into family life as outlined ORS 419B.090: (Children have a right to be safe and healthy in a permanent home. Whenever it is possible to do so safely, families should be kept together.
2. A Model Court has an information system that allows the court and community stakeholders to accurately track individual cases; identify barriers to permanency and evaluate the effectiveness of court improvement strategies.
- A Model Court’s administrator and staff are trained in and follow data entry protocols for all phases of dependency proceedings.
 - Data entry is current or courts have a strategy for resolving any data entry backlog.
 - Court legal files have sufficient information, including CRB Findings and Recommendations, to make it a meaningful record of the court proceeding.
 - A Model Court has an accurate list of all children who are within the court’s jurisdiction or have petitions pending before the court.
3. A Model Court ensures timely permanency for children.
- A Model Court ensures due process without compromising children’s’ permanency needs.
 - A Model Court uses a case flow management system that reduces delays for dependency proceedings.
 - A Model Court follows statutory timelines for shelter hearings, adjudication and review for all dependency cases.
 - A Model Court and its local DHS branch have developed a protocol for searching for absent parents that allows for adjudication of dependency petitions within 60 days of filing in most cases.
 - A Model Court grants setovers only after documenting good cause. The court has a commonly understood criteria for what constitutes good cause.
 - A Model Court sets next court dates while parties are present in court.

- A Model Court team has a protocol for identifying cases that are appropriate for early staffing with the AG for termination of parental rights.
4. A Model Court provides careful oversight of all children within its jurisdiction.
- A Model Court ensures that, wherever possible, the same judge hears all phases of a dependency proceeding.
 - A Model Court has an adequately compensated, highly trained juvenile defense bar that actively represents parents and children at all stages of dependency and termination proceedings.
 - Participants in a Model Court, including the judge, has access to discovery prior to court proceedings and comes prepared to actively participate.
 - A Model Court has an alternative dispute resolution process that is available at critical junctures in dependency and termination proceedings , the results of which are monitored by the judge of the case.

STRATEGIES TO SUPPORT SYSTEMIC PERFORMANCE MEASURES
(County Name) County Model Court Workgroup of (Date of Training)

SYSTEMIC GOAL:						
SYSTEMIC OUTCOME:						
SYSTEMIC MEASURE:						
DATA:						
COURT STRATEGIES	COURT ADMIN. STRATEGIES	CRB STRATEGIES	DEFENSE BAR STRATEGIES	PROSECUTION STRATEGIES	DHS STRATEGIES	CASA STRATEGIES
.						



Systemic Community Justice

Draft Measure

(Last updated 05/20/08)

Definition

This measure is a systemic outcome measure that includes two data indicators of systemic community justice:

1. Children have permanency and stability in their living situations. Two composites make up this data indicator:

Permanency Composite 1: Timeliness and Permanency of Reunifications.

This composite is comprised of two components. One component pertains to timeliness of reunifications which contains three measures. The other component pertains to the permanency of reunifications and includes one measure. Each component has a unique score and contributes 50 percent to the final composite score.

Permanency Composite 2: Timeliness of Adoptions.

This composite is comprised of three components. One component pertains to the timeliness of adoptions of children exiting foster care to adoption. The second component assesses progress toward adoption of a cohort of children who have been in foster care for 17 months or longer and therefore meet the ASFA time-in-foster care requirements regarding the filing for a termination of parental rights and pursuing adoption unless there is an exception.¹ The third component pertains to the timeliness of adoptions of a cohort of children for who are "legally free" for adoption. Legally free means that there is a termination of parental rights for each of the child's living parents. Each component has a unique score and contributes 33.3 percent to the final composite score.

2. Treatment Court Recidivism. Two measures make up this data indicator:

Treatment Court Recidivism Measure 1: Percent of treatment court graduates² who do not recidivate within one year of program graduation. (See Table 1 for definition of recidivism by treatment court).

Treatment Court Recidivism Measure 2: Treatment court graduation rate.

¹ ASFA requires State child welfare agencies to file a petition to terminate parental rights and pursue adoption for a child who has been in foster care for 15 of the most recent 22 months, unless an exception exists. A 17-month rather than a 15-month timeframe was chosen for the measure because, in accordance with ASFA, a child is considered to have "entered foster care" (for purposes of starting the clock for the 15 of 22 months) on the earlier of:

1. The first judicial finding that the child has been subjected to abuse and neglect, or
2. The date that is 60 days after the date of which the child is removed from the home.

² Graduates are individuals who successfully complete an adult treatment court program's requirements and are determined by the collaborative staffing team to have graduated. Program requirements include treatment attendance, supervision, community recovery support, other treatment, and may require completion of a GED, enrollment in college, or attaining a job. Some programs allow a participant to "complete" but not graduate (participant is not endorsed as graduated by the collaborative staffing team.) Participants with a "completed" status (not graduated) are not included in this measure.

Purpose

The OJD's Vision 2020 Partnership Goal is closely aligned with this measure:

*"In Oregon, courts actively work with their public and private partners and volunteers to strengthen and protect the community. **Together, we promote public safety and quality of life, improve the lives of children and families, and protect people who cannot protect themselves.** We use preventive measures and effective sentencing to reduce criminal behavior."*

Today, in Oregon, our judges are fully invested in their individual communities and have fully embraced the view that difficult societal problems that eventually end up in our courtrooms cannot be solved by the judicial branch alone but require the collaborative efforts of each branch of government. Although that collaborative effort must begin at the highest levels of government in Salem, it can succeed only if it is fostered and implemented every day in our local communities through innovative relationships among courts, local governments, and the agencies of the other branches of government, such as mental health agencies and professions, law enforcement, criminal defense communities, and others.

The Systemic Community Safety Performance Measure highlights the collaborative problem-solving model to protect the public and enhance the chances of successful outcomes for people who come before the courts. These are systemic measures because they are impacted by the courts as well as the other government agencies that work with this population.

Method

Two data indicators will be used as part of the assessment of systemic community justice outcomes.

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Section Two

Permanency Planning

Maurita Johnson, Assistant Administrator, Office of Program Performance and Reporting Children, Adults and Families, Oregon Department of Human Services

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“Permanency is actually a continuity of psychological orienters”

Terry Cross
Native Indian Child Welfare Association

Concurrent Planning:

Strategies	Responsibility	Targeted Completion Date	Benchmarks
1.1 Develop court and shareholder ability to use assessment information in Form 333 to reduce re-abuse	JCIP, DHS	Dec-08	JCIP and DHS will develop training materials and use them in Fall 2008 Road Show. Materials to be posted on JCIP Website by Nov 08. Develop Technical Support Bulletins
2.1 Court will make inquiry as to appropriateness of permanency planning at all stages of the case	JCIP, DHS, CRB, Tribes, Circuit Courts	Sep-10	Develop concurrent planning check list for Court, CRB and DHS. Provide training for judges on PPL inquiries
4.3 Develop statewide recommendations for Court to consider age-appropriate input from children when reviewing their permanency plans	JCIP, DHS, CRB, Circuit Tribes	Aug-09	Development of multi-disciplinary guidelines for statewide distribution

Writing a Case Plan/333a

Parting the Curtains
or
"It's a Chapter, not the Book"

Goals

- To have caseworkers on the same "page" when it comes to writing a case plan/333a.
- To have a document that can be useful for the court, CRB, and to share with families.
- So those who we communicate with through the case plan/333a, have a common understanding of its purpose and content.

Why do we need it?

- DHS needs a format to communicate the case plan with families.
- DHS needs a format to document its case plan.
- Federally mandated case plan requirements are contained in the case plan/333a.
- DHS needs a format to communicate with the Court and CRB.

Process used for the recent change?

- Statewide input from supervisors about what works and what doesn't.
- Focus groups in the Metro area with lawyers, Judicial Officers, and review by the CRB.
- Input from those who attended the Fall 2008 "Eyes of the Child" Conference.
- Input from Central office staff.
- Review by the OSM Implementation Team.

How has it changed?

- A place to indicate if the document is written for a CRB or a Court Hearing.
- A place for the Juvenile Court case number.
- A place to indicate the type of court hearing the document was written for.
- A place to indicate the hearing date.

How has it changed?

- Some sections have moved around but have not changed. Information used for a Court Hearing was moved to the front of the document.
- The Social Work content is in the middle sections.
- Face to face and information about the parties are in the back section.
- Recommendations to the Court are in the very back, above the signature line.

What's new?

- The Identified Safety Threats and Safety Analysis no longer pre-fills from FACIS.
- There is stronger direction for workers to describe how the case plan was developed.
- There is stronger direction for workers to discuss the Concurrent Plan and the progress to date.
- There is stronger direction for workers to document compelling reasons not to pursue Termination of Parental rights.
- Once again, stronger direction to workers that it's a chapter, not a book.

What's New?

- There is a section for workers to list the titles of all the attachments they submitted for the review.
- Face to face contacts now calculate the number of contacts. There is an section where a worker can document when they have received an exception not to see a child monthly.
- There is a section for additional information, where a worker can document their court recommendations.

What's New?

- 310v is a form that just addresses Visitation. And yes, it calculates the number of visits too.
- 310h continues to address Health information but it will change soon.
- 310e has been changed to support the requirements of SB 414.
- All three need to be completed and attached for CRB and Court Reviews.

Narrative Recording Guide

- Something you can keep by your desk or bench to refer to when you wonder why that piece of information was put in that box.
- If you are a worker, something you can use if you are struggling with how to articulate your work with a family when it comes to writing or updating a case plan/333a.

Review of Narrative Recording Guide

Work left to do

- Meet with all Supervisors to help initiate and support the change.
- Retrain all staff who write the document.
- The revised format is ready to go "live" with this has been completed.
- Plan to have this work completed by early Spring 2009.

What we need from you?

- Give kudos to that worker who has completed a well written document.
- Give feedback to the supervisor if you see a worker is struggling.

Keep in mind.....

It's a changing world right now. By 2010 DHS will have a new system called ORKids, so case plans will look very different. Plans are for a case plan for the family and a permanency plan for each child.

The court will be moving to an E-court system, so court reports, petitions and other documents will look very different too.

Questions??





Child Welfare Case Plan (Child in Substitute Care, DHS has Custody)

Case.....COOPER, IRENE - FT14124		
Worker.....Maurita Johnson(81YW)	Date.....	8/28/2008
Branch.....Metro Administration(81)		

CRB/Court Hearing: _____
Court Case Number: This info is on the child's petition.
Type of Hearing: _____
Hearing Date: _____

Child Information

Child Name..... _____	Person Letter. _____
Date of Birth..... _____	Age..... _____
Primary Language... _____	
Shelter Date..... _____	
Does ICWA Apply to this child: _____	
Date of Legal Custody: _____	

Mother's Information

Mother's Name..... _____
Date of Birth..... _____
Primary Language.... _____

Father's Information

Father's Name..... _____
Date of Birth..... _____
Primary Language... _____

DRAFT

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Worker: Maurita Johnson(81YW)
Date: 8/28/2008

Fathers Legal Status: _____

Legal Status:

Document information regarding the following questions. If this is a subsequent narrative, provide any updated information.

1. How was the father determined to be the legal father?
2. Is there current action pending with court or the Division of Child Support regarding paternity?
3. Has there been any paternity testing and if so, what was the outcome?
4. What kind of relationship, contact, or contributions has the putative father had with the child?

Placement History

(since the most recent Date of Legal Custody)

Placement History:

Number of Placements:

Placement(s) History Narrative:

The information above prefills from FACIS. During this review period and since the last narrative was written, document any reasons for placement changes since the last narrative recording, and whether a placement change enabled the child to be placed with a relative and/or with his or her siblings. If the child has moved within the past six months, were the parents notified of the move? If not, why not?

Relative Search

Relative Search:

1. Document efforts, since the last narrative recording, to identify and locate the child's maternal and paternal relatives.
2. Document the timely, personal, and/or written contact with the maternal and paternal relatives identified by the mother and father on the DHS 447.
3. Document the Department's efforts, since the last narrative recording, to place the child with relatives, and efforts to continue or facilitate contact, attachment, relationship, and support for the child with the relatives who have expressed interest in placement and other ongoing connections.
4. If the child is with a relative, document if that placement is stable.



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Worker: Maurita Johnson(81YW)
Date: 8/28/2008

Reasonable/Active Efforts to Prevent Placement OR Achieve the Permanency Plan

Reasonable/Active Efforts to Prevent Placement OR

Achieve the Permanency Plan:

List the reasonable/active efforts made by the Department, since the last narrative recording, to prevent placement or achieve the permanency plan. Specify services that have been provided or offered by the Department and/or other community providers during the period under review. List the dates the parent was referred to a specific service provider, and the dates the parent participated in service/treatment. (example, Irene has actively participated in Parenting during the months of August-December 2008).

Legal Information

Jurisdictional Basis:

- 1. List the allegations on which the court took jurisdiction.*
- 2. Indicate the legal status of each child listed on the case plan, such as the child is in temporary custody, ward of the court, etc.*

This is one area that will remain the same from narrative to narrative unless there has been a change, or an amended or new petition filed with additional allegations.

Most Recent Court Order:

Enter the orders of the court from the most recent court hearing, or since the last review. For example:

- 1. DHS to refer mother and father for neurological evaluation.*
- 2. Mother and father to participate in neurological evaluation.*

If your court Orders your Expected Outcomes, state those here.

Actions/Services Pursuant to Court Order:

Enter the DHS actions taken pursuant to the above court orders. For example:

- 1. Both parents were referred, scheduled, and notified of evaluation scheduled on xx/xx/xxxx.*

Enter the actions taken by any of the case participants pursuant to the above court orders. For example:

- 1. Mother did not attend evaluation scheduled on xx/xx/xxxx. Did not cancel; has not contacted DHS.*
- 2. Father completed evaluation; scheduled to meet with caseworker on xx/xx/xxxx to discuss recommendations.*

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recommendations.

Document any barriers to services. This could include the parents location becoming unknown, an appointment needed canceling due to transportation issues, the service being unique and not easy to access.

If your court orders your Expected Outcomes, this section could include information about the Action Agreements and the services planned to meet the Expected Outcomes.

Indian Child Welfare Summary

Indian Child Welfare Summary:

Comment on the contents of the FORM 1270, that has been signed by all persons having legal rights to each child listed on the case plan. If the 1270 has not been done, talk about the plan to get this completed. If ICWA does not apply, as a result of the parents stating so on the 1270, state this. If ICWA does apply or has not been determined, summarize any efforts made and correspondence received from the Tribe(s) to determine ICWA.

Child Safety and Well Being

Current Placement:

1. *Describe the child's current substitute care placement and if the placement has changed since the last narrative recording.*
2. *Explain why the current placement is the least restrictive placement available to meet the child's needs, and how the placement meets the unique needs of the child.*
3. *Describe the child's adjustment to the current living arrangement, and how this placement preserves the child's connections and attachments, including proximity to the child's biological family, siblings, and school. How does this placement support the child's cultural and family identity?*
4. *Describe services the substitute caregiver provides the child, tailored or developed to support the placement, and assure the child receives safe and appropriate care while in placement. For example:*
 - a. *Additional home visits or phone contact*
 - b. *The substitute caregiver is working with the child's parent or other professionals towards reunification*
 - c. *RN, mental health, educational, or other consultation.*
 - d. *Discuss needs identified by any assessment.*
 - f. *Discuss any plans that may be in place as a result of a Special or Personal Care Rate.*
5. *If the placement is not within close proximity to the child's home or family, or required a change in schools, address why this is in the child's best interest.*
6. *If the child has been placed out of state, describe how the child's placement will be supervised by the receiving state. Include information provided by the supervising state, and gathered from their visits to the child's home.*

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state. Include information provided by the supervising state, and gathered from their visits to the child's home.

Child Description, Their Needs and Well-Being:

(Refer to Education Information (310E), Health Information (310H) for current education and health information)

1. Describe the child, his or her current development, physical and emotional condition. What has changed since the last narrative recording?
2. Describe relationship with parents and siblings. Has there been any changes since the last narrative recording.
3. Explain the child's needs, and recommendations from professional evaluations or other assessments regarding services to meet the child's needs (physical or mental health assessments, psychological evaluations, or special education assessments). Have there been any changes since the last narrative recording.
4. Describe current services to the child to address identified needs. Have there been any barriers to providing services and if so what are they.
5. Describe the services provided by the substitute caregiver to address the child's special or unique needs.
6. Describe actions taken and planned actions by the Department to address the child's attachment, culture, and other identified needs.

Visitation Plan:

Describe how the visitation plan was developed with the family and the child, and when it was last reviewed and updated. Describe how the types of contact meet the child's needs for family contact and attachment. Describe any alternate types of parent-child contact other than face to face visits such as phone contact, letters, e-mail, contact at school events.

Youth Transition Programs and Services:

Describe any Youth Transition Programs and Services for children 16 and over. If there are services provided to children younger than 16, then describe them also. This is discretionary for children ages 14 and 15.

Disposition

Disposition:

Document the disposition of the CPS Assessment: Founded, Unfounded, or Unable to Determine on each allegation of child abuse. If there are no new CPS assessments, note this in future narrative recordings.

Identified Safety Threats and Safety Analysis

Identified Safety Threats and Safety Analysis:

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Identified Safety Threats and Safety Analysis:

This section no longer prefills. List the identified safety threats, and describe how the threats are specifically affecting the family's functioning. Describe how the child is vulnerable to the safety threats, and how there is no parent/guardian either willing or able to protect the child from the safety threats.

Ongoing Safety Plan

Ongoing Safety Plan:

Describe the ongoing safety plan, and explain how the current safety plan is the least intrusive intervention available to ensure child safety.

Protective Capacities

Relationship: _____

Protective Capacities:

The relationship box above is a drop down box that let's you select between mother, father, legal guardian and other. After selecting the person, describe enhanced protective capacities of the person above, and those protective capacities which will be utilized to re-establish child safety within the family. Describe the diminished protective capacities which resulted in the identified safety threats.

Relationship: _____

Protective Capacities:

The relationship box above is a drop down box that let's you select between mother, father, legal guardian and other. After selecting the person, describe enhanced protective capacities of the person above, and those protective capacities which will be utilized to re-establish child safety within the family. Describe the diminished protective capacities which resulted in the identified safety threats.

Permanency Planning

Case Plan Development:

How were the parent(s), children, and others involved in the development of the case plan? Were there a series of individual meetings with the parents? Was a family meeting used? If an OFDM was held, describe the family's plan and, if family's recommendations were not used, explain why. When was a family meeting held? If a Family Decision

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How were the parent(s), children, and others involved in the development of the case plan? Were there a series of individual meetings with the parents? Was a family meeting used? If an OFDM was held, describe the family's plan and, if family's recommendations were not used, explain why. When was a family meeting held? If a Family Decision Meeting (ORS 417.368) was not held, explain the reason, such as:

1. Parent unwilling or unable to participate,
2. Extreme conduct of the parents requires an alternate permanent plan,
3. Participant safety cannot be assured, or
4. High levels of conflict prevent the likelihood of a successful meeting,
5. Awaiting Court findings.

If the Case Plan has changed since the last narrative recording, document that the plan has changed, who participated in making the changes, and the dates the plan changed.

Primary Permanency Plan

Primary Permanency Plan:

Conditions For Return

Conditions for Return:

Talk about the behaviors, conditions, and circumstances that must exist to establish an in-home safety plan. The behaviors, conditions, and circumstances must relate to one of the following:

Parent/guardian willingness and ability to comply with an in-home safety plan;

Parent/guardian willingness and ability to work with the agency toward achieving expected outcomes;

A living environment that is safe and stable enough to sustain an in-home safety plan;

The resources (safety service providers and oversight) necessary to manage child safety.

Progress on Achieving Conditions for Return

Document progress on achieving Conditions for Return, since the last review. What has changed, and what still needs to change? Were there barriers to achieving the conditions for return? If so what were they, and how were they addressed?

Expected Outcomes

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Expected Outcomes

Expected Outcomes:

Document observable, sustainable changes in protective capacities expected of the parent/guardian which will mitigate or eliminate a safety threat.

Progress on Achieving Expected Outcomes

Progress on Achieving Expected Outcomes:

1. *Indicate progress to date, and since the last narrative recording, on achieving expected outcomes. Also describe any barriers that have prevented achieving the expected outcomes, and what was done to address the barriers.*
2. *Document actions completed, such as as dates of referral, dates of treatment.*
3. *Indicate observable cognitive, behavioral, and emotional changes in both diminished and enhanced protective capacity.*
4. *Document actions the Department has taken to support achieving expected outcomes including dates of referral, etc.*
5. *If a child has been in care 15 of the past 22 months, what compelling reason, if any, prevents filing of TPR?*

Concurrent Permanency Plan

Concurrent Permanency Plan: _____

Concurrent Permanency Plan Progress to Date

Concurrent Permanency Plan Progress to Date:

The above box is a drop down menu for you to pick from. Concurrent means "Happening together, taking place, existing, or running parallel at the same time". Once identified, talk here about what actions have been taken to implement the concurrent plan? Have there been discussions with the parents about if "not them, who"? For example, if the concurrent plan is adoption, has the matter been staffed for a TPR petition? Has Recruitment been done? If the foster parent has decided to adopt, has a current caretaker staffing been completed? If the concurrent plan is guardianship, has the potential Guardian been referred for a Homestudy? Is there an ongoing relative search? If so, document those and other accomplishments here.

TPR Filing Decision

Case: COOPER, IRENE - FT14124
Worker: Maurita Johnson(81YW)
Date: 8/28/2008

TPR Filing Decision

TPR Filing Decision:

There has to be a compelling reason not to pursue Termination of a Parent's parental rights if the child has been in care for 15 out of the past 22 months. Document one of the following, each time a narrative is written. If you pick 2-6, make sure you comment on how many months the child has been in care in this section.

1. *Circumstances requiring filing of a TPR petition do not exist at this time. The child has been in temporary custody of DHS for XX number of months from the date of placement. This is for children who have not been in foster care for 15 or more months and you are still working with the parents on a return home plan.*
2. *The child is living with a relative, and the placement is intended to be permanent. This is for the child who may have been in care for longer, but is placed with a relative who has committed to raising the child permanently.*
3. *A compelling reason exists that TPR is not in the child's best interest because the parent is successfully participating in the case plan, or another permanency plan is best suited to the health and safety needs of the child. This is for the child who the parent is still working a reunification plan, or for a child who can not or will not accept adoption as a plan.*
4. *The Department has not yet provided services outlined in the case plan and deemed necessary to achieve expected outcomes.*
5. *The child has been in out-of-home care 15 of the past 22 months, and a TPR petition has been filed based on ORS 419b.498 (1)(b) or 419b.498 (1)(c) for one of the following reasons:*
 - a. *Crimes*
 - b. *Abandoned infant*
 - c. *Other*
6. *A voluntary relinquishment of parental rights was signed.*

Attachments

Attachments:

List the titles of all attachments submitted for review with this case plan. List the dates of each attachment. This is helpful as the court needs the information when making their findings, and the CRB also lists the attachments considered in their CRB findings. In addition, when you place this document in the paper file, you will not have to put copies of all the attachments with it. For example:

*Psychological evaluation of Irene Cooper, dated 04/01/07
Visitation Notes by SSA, dated 12/25/07*

Face-to-Face Contact

Caseworker Contact with Child and Parent: _____

Case: COOPER, IRENE - FT14124
Worker: Maurita Johnson(81YW)
Date: 8/28/2008

Caseworker Contact with Child and Parent:

Describe how the contact included discussion of the implementation of the case plan. Describe how the level of contact supports the client's and the case planning needs, and is in the best interest of the child. If face-to-face contact occurred less frequently than required, please explain why. If a supervisor has approved an exception to the required face-to-face contact, document the manager who authorized the exception, and the rationale to support the exception.

The contact dates with the Child, Mother, and Father will prefill in the sections below. In this section, the form will calculate the number of face to face contacts for narratives.

Contact dates with child:

Contact dates with mother:

Contact dates with father:

Contact with relative caregiver/foster parent/provider:

This will not prefill from FACIS, so you will need to add the dates of face to face contacts with the child's substitute caregiver.

Contact with Collaterals, Relatives, others:

Document your relevant contacts with others involved in the child's case plan. For example, Tribal representatives, neighbors, teachers, etc.

Case: COOPER, IRENE - FT14124
Worker: Maurita Johnson(81YW)
Date: 8/28/2008

The 310 series of forms: Educational Information (310E), Health Information (310H) and Visit Information (310V) are each a part of the case plan and must be copied and attached to the case plan in the report to the court/CRB.

Child and Family Information

Mother Information

Mother's Name.....
Whereabouts..... Confidential Address
Bldg/Apt.....
Street.....
City, State, Zip..... ,
Phone Number

Father Information

Father's Name.....
Whereabouts..... Confidential Address
Bldg/Apt.....
Street.....
City, State, Zip..... ,
Phone Number

CASA Information

CASA Name.....
Bldg/Apt.....
Street.....
City, State, Zip..... ,
Phone Number

Attorney Information

Case: COOPER, IRENE - FT14124
Worker: Maurita Johnson(81YW)
Date: 8/28/2008

Attorney Name..... _____
Representing..... _____
Bldg/Apt..... _____
Street..... _____
City, State, Zip..... _____, _____
Phone Number _____

Other Significant Persons/Relatives:

Name..... _____
Relationship..... _____
Bldg/Apt..... _____
Street..... _____
City, State, Zip..... _____, _____
Phone Number _____

Additional Information

Use this section, when the document is used as a court report, for your court recommendations. Some examples:

Regarding Conditions for Return: Upon achievement of the Conditions for Return, DHS believes an in-home safety plan will be sufficient to manage the safety of the children while the parents continue to work with DHS toward the Expected Outcomes. DHS respectfully recommends the Court adopt the following Conditions for Return.....

Regarding Expected Outcomes: DHS respectfully requests the Court to Order (the parents) to achieve the following Expected Outcomes which, when achieved, will enable (the parents) to regain full responsibility for safely parenting the children.....

Regarding services-when the parent is actively engaged and motivated to change (DHS is not asking the court to "order" the parent to participate in services): The progress of the parents toward the Expected Outcomes (not necessarily completion of specific services) will guide case planning and decision-making. DHS and (the parents) have agreed the following services (supports, actions, etc.) will assist them in developing the capacities necessary to safely parent the children:

Regarding services-when the parent is NOT engaged and motivated to change (DHS is asking the court to "order" the parent to participate in services.): The progress of the parents toward the Expected Outcomes (not necessarily completion of specific services) will guide case planning and decision-making. DHS respectfully requests to the Court to order (the parents) to participate in the following services in order to increase their capacity to safely parent

DRAFT

Case: COOPER, IRENE - FT14124
Worker: Maurita Johnson(81YW)
Date: 8/28/2008

*order (the parents) to participate in the following services in order to increase their capacity to safely parent the children:
(list services)*

Additional services may be needed to assist (the parents) in fully achieving the Expected Outcomes. Services will be regularly reviewed for appropriateness and modified as needed to assist the parents in making progress toward regaining responsibility for safety parenting the children.

Also, use this section to put any additional information that needs to be captured that does not fit in any other section of the narrative.

Signature

Caseworker: _____

Date: _____

Supervisor: _____

Date: _____

Parent/Legal Guardian: _____

Date: _____

Parent/Legal Guardian: _____

Date: _____

Mailing Information

Copies of this form mailed by (signature): _____

Date: _____

To:

Mother: _____

Father: _____

Attorney: _____

Legal Guardian: _____

Education Information For Child(ren) 310E

Case..... COOPER, IRENE - FT14124	Date... 8/28/2008
Worker.... Maurita Johnson(81YW)	
Branch.... Metro Administration(81)	

Child Name....	Person Letter.....
Date of Birth...	Age.....
	Last Updated.....
Most Recent Date of Legal Custody: _____	

Education

School(s) Attended Since the Child has been in the Guardianship/Legal Custody of the Department:

Note: Only those schools attended during the most recent date of legal custody are listed

Grade.....	Performance in Math.....
Attendance.....	Performance in Reading.....

High School Credits Earned:

English: _____	Science: _____	Mathematics: _____	Social Sciences: _____
Health: _____	Electives: _____	Physical Education: _____	

Secondary Language/Art/Technical: _____

Diploma/GED:

Child has achieved a High School Diploma/GED or Alternate Certification: _____

Date: _____

Post Secondary Education:

Child is enrolled in post secondary education: _____

Special Education Program Plan: _____

DRAFT

Case: COOPER, IRENE - FT14124
Branch: Metro Administration (8/28/2008

Child will graduate by age 19: _____ Date Last Determined: _____

Education Narrative:
Document whether the child's placement takes into account proximity to the school in which the child was enrolled at the time of placement. Document any special circumstances in the child's school history such as multiple schools, school transfers due to travel constraints, needs for specialized education services or treatment. Document the efforts made by the Department to stabilize school attendance. Document the child's progress in school since the last review and any special accomplishments.

School Performance:
Document the efforts made by the Department to stabilize school performance. How is the child achieving academically, socially, behaviorally, or in other specific areas since the last review? Document the efforts made by the Department, the school, and the child's caregiver to support school success. Document the child's progress in school, any special accomplishments. For any child age 14 and older, document the child's progress in earning high school credits. When a child is not expected to complete high school or equivalent training by age 19, document the reasons graduation will not be achieved.

School Planning:
Document those involved in making the school or education placement decisions for the child. Describe how the parents, substitute caregivers and others involved in the child's case plan have been involved in educational planning. Document approvals received for a school or educational placement other than a public school. Describe how the services provided by the school meet the child's need.

Surrogate:
Child's educational surrogate name.
Worker may write confidential instead of surrogate's name if necessary for safety reasons.

Special Education:
Document if the child has a current IFSP, IEP or 504 plan. Document the nature of the child's special education needs and/or identified learning disability. If the child has a learning disability but does not have a current IEP, explain the reason. Document the persons involved in the IEP process and the Department's involvement with the child's school and educational program.

Signature and Mailing Information

Copies of 310E mailed by (signature): _____

To: Mother: _____

Father: _____

Provider: _____

Legal Guardian: _____

DRAFT

Case: COOPER, IRENE - FT14124
Branch: Metro Administration(8/28/2008

CC To: _____

Health Information For Child(ren) 310H

Case..... COOPER, IRENE - FT14124	Date... 8/28/2008
Worker.... Maurita Johnson(81YW)	
Branch.... Metro Administration(81)	
Child Name....	Person Letter.....
Date of Birth...	Age.....
	Last Updated.....

Health Providers

Doctor.....	Last Exam... _____
Dentist.....	Last Exam... _____
Therapist.....	Last Exam... _____

Health Information

Medical Health:

Describe general medical and dental health, noting any significant known medical problems or changes since the last review.

Describe any developmental delays. Was an initial medical assessment completed? Indicate the services provided to meet any identified needs. Include any pertinent information from the initial medical and from the current personal care assessments, if there is one. Summarize the completed medical and dental health checks including comprehensive medical evaluations, well child check, eye exams, etc. Were any follow-up services necessary? Were the services provided?

Allergy Alert:

Indicate possible life threatening reactions to insect stings, certain foods or drugs, such as penicillin. Note whether the child has hay fever due to grass, weed or pollen and/or allergies to dust mites, mold spores, mildew or animal dander.

Medications:

List any medications, both prescription and over the counter. Describe what the medical issue the medication is addressing.

Mental Health Information:

DRAFT

Case: COOPER, IRENE - FT14124
Branch: Metro Administration(8/28/2008

Has this child had a mental health assessment or a psychological evaluation since the last review? If yes, who did the assessment and when was it completed? Does the child have an ongoing therapist?

Child's Diagnosis:

Does the child have a diagnosis? If so, list it here.

Treatment Evaluation:

What are the therapist's recommendations since the last review? What effort is the Department making to address those recommendations? If the agency is choosing not to implement the recommendations of the therapist, explain why not. Describe how the services match the child's needs and any barriers that are preventing services.

Case: COOPER, IRENE - FT14124
Branch: Metro Administration(8/28/2008

Immunization History

Seq	1st	2nd	Dates 3rd	4th	5th	Series Comp	Had Illness
DPT - (Diphtheria/Pertussis/Tetanus):							

Polio:							

MMR - (Measles/Mumps/Rubella):							

HEP A - (Hepatitis A):							

HEP B - (Hepatitis B):							

Varicella - (Chickenpox):							

HIB - (Influenza):							

Tetanus - (Additional shots):							

Pneumo (Pneumococcal Conjugate):							

Case: COOPER, IRENE - FT14124
Branch: Metro Administration(8/28/2008

TB Screening

Date: _____	Type: _____
	Result: _____
Date: _____	Type: _____
	Result: _____
Date: _____	Type: _____
	Result: _____
Date: _____	Type: _____
	Result: _____

Medical/Immunization Exemptions:

DRAFT

Case: COOPER, IRENE - FT14124
Branch: Metro Administration(8/28/2008

Signature and Mailing Information

Copies of 310H mailed by (signature): _____

To: Mother: _____

Father: _____

Provider: _____

Legal Guardian: _____

CC To: _____

Visitation Information for Child(ren) 310V

Case.....	COOPER, IRENE - FT14124
Worker.....	Maurita Johnson(81YW)
Branch.....	Metro Administration(81)
Date.....	8/28/2008

Visit Participants:

Child Name.....	Person Letter.....
Date of Birth.....	Age.....
	Last Updated.....
Most Recent Date of Legal Custody:	
Child Visits	
Child Visits with Sibling(s):	

Child Visits with Parent(s):

Other Types of Visitation:

The sections above prefill from FACIS. Once again, if this document is being written for court, the court usually appreciates a calculated number for their findings and order. You can put that here in the beginning of this section, by making a statement that "there have been 50 visits between the child and parent since the most recent date of legal custody, and 62 visits between the child and his siblings". In addition, in this section you may want to document other types of contact that are included in the visitation plan and have occurred: i.e., phone, email, attendance at events, appointments, others. Document the circumstances when visits or other contact was arranged but did not occur as well. Document in the narrative section visits with other relatives who are not included as members in the case plan.

Education Information For Child(ren) 310E

Case..... COOPER, IRENE - FT14124 Date... 8/28/2008
Worker.... Maurita Johnson(81YW)
Branch.... Metro Administration(81)

Child Name.... Person Letter.....
Date of Birth... Age.....
Last Updated.....
Most Recent Date of Legal Custody: _____

Education

School(s) Attended Since the Child has been in the Guardianship/Legal Custody of the Department:

Note: Only those schools attended during the most recent date of legal custody are listed

Grade..... Performance in Math.....
Attendance..... Performance in Reading.....

High School Credits Earned:

English: ___ Science: ___ Mathematics: ___ Social Sciences: ___
Health: ___ Electives: ___ Physical Education: ___

Secondary Language/Art/Technical: _____

Diploma/GED:

Child has achieved a High School Diploma/GED or Alternate Certification: _____
Date: _____

Post Secondary Education:

Child is enrolled in post secondary education: _____

Special Education Program Plan: _____

Case: COOPER, IRENE - FT14124
Branch: Metro Administration(8/28/2008

Child will graduate by age 19: _____ Date Last Determined: _____

Education Narrative

Document whether the child's placement takes into account proximity to the school in which the child was enrolled at the time of placement. Document any special circumstances in the child's school history such as multiple schools, school transfers due to travel constraints, needs for specialized education services or treatment. Document the efforts made by the Department to stabilize school attendance. Document the child's progress in school since the last review and any special accomplishments.

School Performance

Document the efforts made by the Department to stabilize school performance. How is the child achieving academically, socially, behaviorally, or in other specific areas since the last review? Document the efforts made by the Department, the school, and the child's caregiver to support school success. Document the child's progress in school, any special accomplishments. For any child age 14 and older, document the child's progress in earning high school credits. When a child is not expected to complete high school or equivalent training by age 19, document the reasons graduation will not be achieved.

School Planning

Document those involved in making the school or education placement decisions for the child. Describe how the parents, substitute caregivers and others involved in the child's case plan have been involved in educational planning. Document approvals received for a school or educational placement other than a public school. Describe how the services provided by the school meet the child's need.

Surrogate

Child's educational surrogate name.
Worker may write confidential instead of surrogate's name if necessary for safety reasons.

Special Education

Document if the child has a current IFSP, IEP or 504 plan. Document the nature of the child's special education needs and/or identified learning disability. If the child has a learning disability but does not have a current IEP, explain the reason. Document the persons involved in the IEP process and the Department's involvement with the child's school and educational program.

Signature and Mailing Information

Copies of 310E mailed by (signature): _____

- To: Mother: _____
- Father: _____
- Provider: _____
- Legal Guardian: _____

DRAFT

State of Oregon
CHILDREN, ADULTS AND FAMILIES
Department of Human Services

Case: COOPER, IRENE - FT14124
Branch: Metro Administration(8/28/2008

CC To: _____

Guidelines to Achieving Permanency
A desk side reference

Goals

- A tool where all parties can track the progress of an out of home case from initial placement to permanency.
- Return home is always the first consideration in achieving permanency.
- Time frames are the maximum; anything can be done early.
- The task list is not exhaustive, but meant to address the general tasks to be completed.

1-31 Days Safety

- ✓ CPS Assessment
- ✓ Safety Analysis
- ✓ Child Safety Meeting
- ✓ Develop Conditions for Return

1-31 Days
Permanency

Return child home or...

- ✓ Develop Visit Plan
- ✓ Assess sibling issues
- ✓ Begin relative search
- ✓ ASFA disclosure
- ✓ ICWA
- ✓ ID legal parties
- ✓ Absent Parent Search
- ✓ Father's Questionnaire

1-31 Days
Well Being

- ✓ Obtain Releases of Information for all prior service providers
- ✓ Complete a Well Child exam
- ✓ Refer for a Mental health assessment
- ✓ Order Birth Cert and SSN Card
- ✓ Early Intervention Referral

1-31 Days
Administrative and Legal Tasks

- ✓ Shelter Hearing
- ✓ Begin Case Plan development if assessment is completed
- ✓ Begin building 310 Series; Health, Education and Visitation

31-60 Days
Safety

✓ Develop Expected Outcomes

31-60 Days
Permanency

Return child home or...

- ✓ Review Visit Plan
- ✓ Assess emerging sibling issues
- ✓ Continue to assess relatives
- ✓ Protective Capacity Assessment
- ✓ OFDM/ Develop Plan and Concurrent Plan
- ✓ Action Agreement

31-60 Days
Well Being

- ✓ Order Birth Records
- ✓ Begin 246, Genetic and Medical History of Child and Biological Family
- ✓ Photograph Child/ Parents
- ✓ Order prior service records of parents

31-60 Days
Administrative and Legal Tasks

- ✓ Complete Jurisdiction/ Wardship
- ✓ Meet with the family and develop the 333a case plan.

**61- 180 Days
(2-6 Months)**
Safety

- ✓ Review Safety Plan

**61- 180 Days
(2-6 Months)**
Permanency

Return child home or...

- ✓ Review Visit Plan
- ✓ Assess sibling issues
- ✓ Conclude Initial Relative Search
- ✓ 90 Day Case Plan Supervisor Review, Discuss Plan and Concurrent Plan progress.
- ✓ FDM/Action Plan Review-Discuss Plan and Concurrent Plan progress with the family.

**61- 180 Days
(2-6 Months)**
Well Being

✓ Review Mental Health/ Medical/ and or Educational needs

**61- 180 Days
(2-6 Months)**
Administrative and Legal Tasks

✓ CRB
✓ AAG Initial Legal Review

**181- 240 Days
(6-8 Months)**
Safety

✓ Review Safety Plan

**181- 240 Days
(6-8 Months)**
Permanency

Return child home or....

- ✓ Assess sibling and relative issues
- ✓ Assess Adoptability
- ✓ Review the Protective Capacity Assessment
- ✓ FDM/Action Plan Review-Discuss Plan and Concurrent Plan progress with the family.
- ✓ Youth Decision Meeting for youth 14+ to develop an ILP Plan.
- ✓ Review visit plan

**181- 240 Days
(6-8 Months)**
Well Being

- ✓ Review Mental Health/ Medical/ and or Educational needs

**181- 240 Days
(6-8 Months)**
Administrative and Legal Tasks

- ✓ 333a if there is an intervening court hearing.
- ✓ Update 310 series that address Health, Education and Visitation.

**241-365 Days
(8-12 Months)**
Safety

✓ Review Safety Plan

**241-365 Days
(8-12 Months)**
Permanency

Return child home or....

- ✓ Review visit plan
- ✓ Assess sibling and relative issues
- ✓ Begin Recruitment
- ✓ FDM/Action Plan Review-Discuss Plan and Concurrent Plan progress with the family.
- ✓ Current Caretaker Staffing, Guardianship study.
- ✓ Complete Homestudy.

**241-365 Days
(8-12 Months)**
Well Being

✓ Review Mental Health/ Medical/ and or Educational needs

**241-365 Days
(8-12 Months)**
Administrative and Legal Tasks

- ✓ AAG Permanency Legal Review
- ✓ Permanency Hearing
- ✓ CRB
- ✓ 333a for CRB or Court
- ✓ 310 Series

**366-540 Days
(12-18 Months)**
Safety

- ✓ Review Safety Plan

**366-540 Days
(12-18 Months)**
Permanency

Return child home or....

- ✓ Review Protective Capacity Assessment
- ✓ Review Visit Plan
- ✓ Assess sibling and relative issues
- ✓ Achieve Guardianship or arrange Permanent Foster Care if there is a compelling reason for the child not to be returned to parent or adopted.
- ✓ File TPR, secure Relinquishments, refer for Mediation.
- ✓ Adoption Committee.

**366-540 Days
(12-18 Months)**
Well Being

- ✓ Review Mental Health/ Medical/ and or Educational needs.
- ✓ Complete 246, Genetic and Medical History of Child and Biological Family

**366-540 Days
(12-18 Months)**
Administrative and Legal Tasks

- ✓ Termination of Parental Rights trial
- ✓ 333a
- ✓ 310 series that address Health, Education and Visitation.
- ✓ CRB

**541-730 Days
(18-24 Months)**
Safety

- ✓ Review Safety Plan

**541-730 Days
(18-24 Months)
Permanency**

Return child home or...

- ✓ Review the Protective Capacity Assessment
- ✓ Review Visit Plan
- ✓ Assess sibling and relative issues
- ✓ Finalize Adoption
- ✓ Complete Guardianship
- ✓ Review APPLA Plan to determine if higher level of permanency can be implemented (Adoption, Guardianship)

**541-730 Days
(18-24 Months)
Well Being**

- ✓ Review Mental Health/ Medical/ and or Educational needs.

**541-730 Days
(18-24 Months)
Legal and Administrative Tasks**

- ✓ Court Review of PFC
- ✓ 333a, 310 Series
- ✓ CRB

And Finally,

Why do we want you to know this?

- We want you to be able to follow the same road map a DHS worker follows.
- We want your help in Achieving Permanency for all children in out of home care.
- We want your help in making sure there is active Concurrent Planning for all children in out of home care.



A TECHNICAL SUPPORT BULLETIN FOR JUDICIAL OFFICERS
THE PERMANENCY HEARING

Juvenile Court Improvement Project
Oregon Judicial Department

June 2004

**THE POLICY OF THE ADOPTION AND
SAFE FAMILIES ACT (PL 105-89)**

The law governing child abuse and neglect law has become complicated and esoteric, with confusing state and federal time lines and requirements for findings, hearings and presumptions. It helps to keep in mind their common underlying policy: expeditious permanency for children in foster care.

In 1997, Oregon passed the “Best Interest of the Child” legislation (SB 689). For the first time, there were time limits for adjudicating cases, time frames for attempting reunification, and deadlines for making permanency decisions for children. Later that year, Congress passed the Adoption and Safe Families Act (ASFA), which, in essence, required all states to adopt the policy that Oregon had adopted. Both legal reforms intended the same result: to end foster care drift. Long stays in foster care are associated with increased risk of negative outcomes for children, such as delinquency, substance abuse, school drop-out, teen pregnancy and the perpetuation of child abuse and neglect when these children become parents.

The permanency hearing is a crucial means of

- implementing the policy of expeditious permanency for children;
- ending foster care drift; and
- ensuring agency compliance with federal requirements for casework.

**WHAT IS THE PURPOSE OF
A PERMANENCY HEARING?**

ASFA describes a permanency hearing as a procedure to

- ensure that the court carefully reviews the situation of a child in foster care under state supervision to determine a permanency plan in light of the policy of expeditious permanency. 42 USC 675(5)(c); and
- make one or more reasonable efforts findings or, if the Indian Child Welfare Act applies to the case, active efforts findings.

Although the “dispositional hearing” previously held under federal law at 18 months had a similar purpose, renaming the hearing and moving it up to 12 or 14 months emphasizes the underlying policy of ASFA: expeditious permanency.

The goal of ASFA is to end to foster care drift and its uncertainty by developing a plan within a time that keeps the child healthy and safe. Oregon law characterizes this as a “reasonable time.”

“The permanency hearing represents a deadline for the court to determine the final plan to move the child out of foster care and into a safe, nurturing and permanent home.”¹
This decision is based on the conditions and circumstances of the individual child and that

¹ Adoption and Permanency Guidelines, National Council of Juvenile and Family Court Judges, p. 18

of the child's parents. The court can make this decision only after an independent and thorough examination of all relevant facts about the individual child and family.

“Reasonable Time” is defined in terms of a given child’s emotional and developmental needs and ability to form and maintain lasting attachments. ORS 419A.004(21).

Beyond merely naming the plan, *the permanency hearing results in a judgment composed of orders that define the steps and time lines to implement the plan.* ORS 419B.476(5)(b). This judgment is the blueprint that the Department of Human Services (DHS) must follow to achieve permanency for the child.

TIMING OF THE PERMANENCY HEARING

A permanency hearing can or must be held under several conditions defined in ORS 419B.470. Almost all are expressed in terms of a length of time; note that all times are maximums. For example, ORS 419B.470(2) provides that the permanency hearing is to be held no later than 12 months after the child was found to be within the jurisdiction of the court or 14 months after the child was placed in substitute care, whichever comes first. If the plan approved for a particular child at the time of disposition is reunification, but it is clear after six months that following such a plan is not going to result in the child coming safely home in a reasonable time, the court should hold the permanency hearing without delay to determine a plan that will result in placement consistent with the child's developmental and permanency needs.² For efforts to continue, the child's right to permanency in a reasonable time requires that the parents make progress and that

² The concurrent plan should have been developed to the point that it can be adopted by the court and implemented without delay.

this progress results in the child coming home before the child's development or ability to attach is compromised.

The “12/14 month rule” will most often determine when to hold a permanency hearing. Again, the court must hold the permanency hearing if the child is in substitute care no later than 12 months after jurisdiction is established or 14 months after the child comes into care, whichever comes first.

Several common questions arise in applying the “12/14 month rule”:

How do breaks in substitute care periods of time when the child was at home during the 12/14 months affect the timing of the permanency hearing?

Breaks in substitute care do not affect the timing unless the petition was dismissed. The 12/14 month time line to the permanency hearing is not cumulative. Regardless of how much or how little of the appropriate time period the child has actually spent in care, the

court must hold the permanency hearing so long as the child is in care at the 12/14 month point.

If a child has been in care, returned home, and the court

completely dismissed the petition/jurisdiction and then the child is returned to care on a completely new petition, the time for holding the permanency hearing runs from the new entry into care or the new finding of jurisdiction. ORS 419B.470(6).

Unlike the “non cumulative” nature of the 12/14 month rule, the “15 of 22 month rule,” which determines when it is the state's duty to file a termination of parent rights petition arises, is cumulative, stopping and starting as

The parents are not entitled to any specific time period to work a service agreement

the child leaves and re-enters care. See ORS 419B.498(1)(a).

When must the court hold the permanency hearing if a child does not initially come into substitute care but is later removed from home after jurisdiction?

When a child is not removed from home until after jurisdiction, the date of jurisdiction determines when the court must hold the permanency hearing. A child who does not come into care until eleven and one half months after the court finds jurisdiction must have a permanency hearing two weeks later (12 months after jurisdiction).

Does the permanency hearing date change if jurisdiction is established “as to” one parent at a later date than the other?

No. If 12 months following the initial jurisdictional finding is sooner than 14 months following the entry of the child into substitute care, that is when the permanency hearing is held. Although separate allegations must be pleaded and proved as to each parent, it is the child, not the parent who is within the court’s jurisdiction. See ORS 419B.310(3).

When a child is living at home is a permanency hearing still necessary?

Yes. Sometimes a child is home on a “trial home visit.” DHS makes this designation and notes it in the case plan (the “147B”). A child at home on a trial home visit is technically in substitute care. This means that permanency hearings and CRB reviews must be held and, should the child need to be removed, there is no need for a shelter hearing or new reasonable/active efforts or best interest findings.

Although most permanency hearings will be subject to the 12/14 month rule, there are three other situations when the court must hold the hearing sooner:

1 When the court finds that “aggravated circumstances” apply to the case, the court may excuse DHS from making reasonable efforts return the child home. If DHS decides not make such efforts, the court must hold a permanency hearing within 30 days. ORS 419B.470(1).

2 The court must hold a permanency hearing upon the court’s own motion or at the request of almost any party, except for an intervenor or the District Attorney, unless the court finds good cause to do otherwise. ORS 419B.470(4).

Although there is no policy reason to bar a District Attorney, who is involved in the case, from requesting such a hearing, there is a sound reason to bar the intervenor: An intervenor cannot request to be named the permanent placement resource for the child until the court has determined at a permanency hearing that the permanent plan should be something other than return to parent. ORS 419B.116(10)(b). This is to prevent an intervenor from depriving the parents of a fair chance to ameliorate the conditions that led to the removal.

Another party, of course, can request a permanency hearing if that party wishes to advocate changing the plan from reunification to a concurrent plan of placement with the intervenor.

3 The court must hold a permanency hearing within 90 days of removal from a court sanctioned permanent foster care placement. ORS 419B.470(3).

SUBSEQUENT PERMANENCY HEARINGS

The court must hold subsequent permanency hearings within 12 months of the initial permanency hearing and every 12 months thereafter, for as long as the child is in substitute care. ORS 419B.470(5), ORS 419A.004(28).

The reason for a subsequent review is most obvious when the court finds that the permanency plan should be to continue reunification efforts. The court must hold a subsequent permanency hearing at an appropriate time to determine whether to continue or adjust the reunification plan if the child cannot be returned within the time frame ordered earlier by the court. ORS 419B.476(5)(c).

There are two reasons for this continuing review when the court decides to implement a concurrent plan. The first is to ensure that DHS continues to make reasonable efforts to place the child in a timely manner and complete the steps necessary to finalize the plan. Otherwise, DHS might “let up” and turn to other crises once the court decides to implement the concurrent plan, especially in situations where the parents have relinquished their rights or had their rights terminated or where the child is already placed where the concurrent plan dictates.

The other reason for continuing review is that for some children, certain developments may cause DHS to change the child’s permanent plan and seek approval for doing so by the court. This is especially true for children whose permanent plan after the initial permanency hearing is not “permanent.” For example, a child who is placed in a residential facility because of treatment issues that render the child “unadoptable” may well make progress to the extent the child can succeed in a family situation. Then, too, the situation of a placement resource that could commit only to permanent foster care may change from one year to the next and adoption could become feasible. It may be, for example, that the compelling reasons not to proceed with a termination of parental rights that exist over time may no longer exist the next. The court should examine the child’s circumstance in detail at each permanency hearing to ensure the child’s current situation, and not the situation

one year or more ago, in overseeing the planning for the child.³

TIMING -- RELATIONSHIP BETWEEN PERMANENCY HEARING AND TERMINATION HEARING

A case is eligible for foster care funding from the federal government only when the court complies with mandated time lines. Although it may seem like a waste of court time to hold a permanency hearing in, say, June, when a termination hearing is set for August, it is nonetheless necessary. The court makes different findings at a permanency hearing, which focuses on the most appropriate plan for the child, than it makes at a termination of parental rights hearing, which focuses on the parents’ conditions and circumstances and the applicability of the alleged grounds.

The court can hold the permanency hearing at the same time as a termination hearing, so long as the court makes necessary findings and sets them out in a separate judgment, and enters the permanency hearing judgment timely. In the example above, the court can not delay the June permanency hearing until the August termination hearing, but if the situation were reversed, with the termination scheduled for June and the permanency hearing for August, the court could combine the two hearings.

The court should not, however, combine the two judgments. The permanency hearing findings should be set out in a separate judgment, where they can be readily identified for federal and state audits.

³ Adoption and Permanency Guidelines, p. 51-59.

**CONDUCTING THE PERMANENCY HEARING --
PARTIES AND OTHERS
WHO SHOULD BE PRESENT**

All legal parties should be present for a permanency hearing because it is when the court hears evidence to determine the permanent plan for the child. It is especially important that the DHS worker who is primarily responsible for the case planning and casework attend. This is the worker who is most familiar with the family and with the treatment issues presented.

The parents, the child (if age appropriate), their attorneys, and CASA should also be present with a report to the court; like all discovery, this report should have been provided to all parties at least three days before the permanency hearing. ORS 419B.881(2)(a)(B).

Who should attend?

- * **Parent(s)**
- * **Attorneys**
- * **Child (if age appropriate)**
- * **Tribe**
- * **DHS workers**
- * **CASA**
- * **Foster Parent(s)**
- * **Grandparent(s)**
- * **Intervenor(s)**

If ICWA applies in the case, it is important that tribal representatives be present, even if the tribe has not yet intervened in the case. Including the tribe in the decision-making throughout the case is critical. The tribe should be aware of all planning at the earliest possible time.

Intervenor(s) should be present, especially if they are or hope to become the permanent placement for the child. Because the court cannot entertain a motion to grant custody to an intervenor until the permanent plan is changed, this is the opportunity for the intervenor to either present themselves to the court or to at least put the court on notice they would like to be considered, should the plan to reunify the family be abandoned. ORS 419B.116(9)(b).

Foster parents can be a valuable source of information for the judge in determining the child's condition and whether taking more time to allow reunification plans to work will be of benefit or harm to the child. If the foster parents are not present, the court should ask the caseworker whether they were informed of the hearing and their right to be heard. ORS 419B.875(5). The court should ask the same questions to the child's legal grandparents. ORS 419B.875(6). Foster parents and grandparents who cannot attend, or do not feel safe attending, should be offered the opportunity to call or write letters to get pertinent information they might have.

**CONDUCTING THE PERMANENCY HEARING --
PROOF**

The permanency hearing is an evidentiary hearing; the court's findings must be based on a preponderance of the competent evidence. ORS 419B.476(1).⁴ The statute governing introduction of evidence regardless of competency or relevancy under the rules of evidence also applies. ORS 419B.476(1).⁵ Read together, these two statutes allow the court to consider evidence presented about the child's mental, physical and social history and the prognosis regardless of "competency or relevancy under the rules of evidence," but otherwise require competent and relevant evidence. Evidence about a parent's progress in treatment and other issues must have the proper evidentiary foundation to be admissible.

**CONDUCTING THE PERMANENCY HEARING --
REASONABLE/ACTIVE EFFORTS FINDINGS**

Reasonable or active efforts findings are among the most important made at a permanency hearing. These findings are how courts ensure that constitutional rights are preserved during government intrusion pursuant to child protection.

⁴ ORS 419B.476(1) incorporates ORS 419B.310(3).

⁵ ORS 419B.476(1) incorporates ORS 419B.325.

In addition, federal reviewers, as well as compliance managers in local DHS offices, look at permanency hearing judgments to see that the court has made these findings. Federal funding to support the child who is the subject of the hearing depends on DHS making these efforts. It is the court's role, and the purpose of the reasonable/active efforts findings, to certify to the federal government that DHS is making efforts. Without that certification in the form of those findings, foster care funding from the federal government is cut off.

The link between making the efforts and federal money is intended to give DHS incentive to make to the efforts. If DHS does not make the efforts, the state must pay to support the foster care placement. If DHS makes the efforts, the federal government takes the financial burden of the placement.

This "incentive program," however, creates a problem for Oregon, because the legislature has determined that the state cannot expend funds to support relative placements; even in the absence of federal funding to support them. Ordinarily, the lack of a finding, or a finding that the efforts were not made, will require that state funds "back fill" the federal funds. But in the case of a relative placement, the lack of this finding limits the subsidy available to the vastly inferior "Non Needy Relative Grant" available through TANF. In that case, the court may, given the time constraints of the case, continue the hearing and make specific findings as to what the agency must do to satisfy reasonable/active efforts before the hearing resumes.

The Active Efforts standard required by ICWA only applies upon removal of an Indian child or when the child has been removed and DHS is pursuing a plan to return the child to Indian parents or to an Indian custodian.

If the plan at the time of the hearing is to return the child home, the court must make a

finding whether DHS made reasonable efforts, or active efforts if the Indian Child Welfare Act applies, to return the child safely home. ORS 419B.476(2)(a).

In addition to this federally required finding, state law requires the court to find whether the

Efforts Findings

A. Reasonable or Active Efforts to make it possible for the child to safely return home, or

B. Reasonable Efforts to take steps to place the child in accordance with the permanent plan

parents have made sufficient progress to make it possible for the child to safely return home holding the child's health and safety paramount. ORS 419B.476(2)(a).

If the plan at the time of the hearing is something other than return to parent, the court

must find whether DHS has made reasonable efforts to place the child in a timely manner and has completed the steps necessary to finalize the plan. This is a reasonable efforts finding even if the case is subject to ICWA. ORS 419B.476(2)(b).

The court must make these findings as to the plan that is in place at the time of the permanency hearing. The court may also make findings about DHS efforts to implement any other plan that was in place during the period under review. Such findings have impact if the court believes that failure to make reasonable/active efforts on a previous plan so damaged to the parent's chances to have the child come home, it negates to the duty to file a termination that arises under the 15 of 22 months rule. ORS 419B.498(2)(b)(C). Failure to make efforts, in and of itself, does not require or provide enough basis for an exception to the duty to file. If the court allows more time for the parents to work toward reunification, the court must find that it is in the best interest of the child. ORS 419B.498(2)(b)(C).

In addition to making findings required by the individual case, the court must provide a brief description of the efforts that DHS made. ORS 419B.476(5)(a). The court can append the DHS report to the judgment if the report clearly outlines the efforts.

DETERMINING THE PERMANENT PLAN FOR THE CHILD

Aside from the mandated findings regarding reasonable/active efforts, the most important finding in a permanency hearing is the permanent plan. In some cases, DHS will present one plan with other parties in agreement. In other cases, parties will disagree and present competing plans for the court to consider. ***In all cases, the court must make an independent inquiry into the child's circumstances and to make an independent determination of the plan that best meets the health and safety needs of the child.***

The court retains the final word as to what the plan will be. ORS 419B.476(5)(b). Any party to the case may develop and propose a case plan for the court's consideration. When the initial jurisdiction is established, the court has the responsibility to enter an appropriate disposition judgment. ORS 419B.325(1). DHS may change the case plan at any time, and need not seek court approval to do so, but an agency determination that one or another plan is best for the child is not binding on the court.

Unlike the inquiry under ORS 419B.476(2), as to reasonable/active efforts, the court does not, in determining the permanent plan pursuant to section five of the statute, begin with the plan that is in effect when the hearing begins. ORS 419B.476(5) requires the court to consider whether the plan should be return to parent and if the court makes written findings that this is not the appropriate plan, then the court next considers adoption. If the court determines that adoption is not the appropriate plan it must make written findings to that effect before considering guardianship and then, in the same

manner, planned permanent living arrangement.

Before considering any plan, the court must be aware of the child's specific needs, including

- updates on the child's health and education;
- the current placement and behavior;
- services that have been provided;
- progress that the child has made;
- issues yet to be addressed;
- cultural needs; and
- sibling status, relationship and contact.

To support findings about the permanent plan on appeal, it is not sufficient that the information be in the court file from previous hearings. It must be considered, in some manner consistent with ORS 419B.325 or OEC 201(b), at the permanency hearing itself, before the court designates it a part of the record for the purposes of appeal. See, *State ex rel DHS v. Lewis*, 193 Or App 264, 270 (2004).

All parties, as well as foster parents and grandparents, will have information, some of which DHS or another party may not have known or considered in developing a plan.

The court must make a similar inquiry regarding the parents if jurisdiction is based on parental behavior:

- Have they ameliorated the problems that led to the child coming into care?
- What services have been provided to them, how have they responded to these services, and how much progress is left to be made, if any, before the child can be safely returned, if that is possible?

Judges must ensure that any information obtained from DHS or others is shared with all the parties. The court should determine whether it needs additional reports and may decide it necessary to hear from those making the reports and to ask questions about recommendations of treatment providers and others.

Only when the court is familiar with all the details should it consider whether the plans presented adequately address the paramount concern, the child's health and safety needs.⁶

At every permanency hearing, regardless of the plan(s), each party presenting a plan should make a thorough presentation of how they concluded that this particular plan is the best one, even if the permanent plan is agreed to by all. The court must hear enough evidence to be satisfied the plan does meet the health and safety needs of the child. The court must also question the parties to ensure they understand the ramifications of a plan to which they agree, especially if the stipulation seems based on some kind of negotiated agreement.

The court must order the plan that best fulfills the requirement to make the child's health and safety the paramount concern, not just any plan to which all involved have agreed. Even if the court does ratify a permanent plan to which all parties have agreed, the court must still ensure that sufficient evidence supports implementation of the plan, including such things as transition.

Subsequent permanency hearings, held each year for so long as the child is in substitute care, have the same requirements as the first one. For example, at a subsequent permanency

Even if the parties agree, the court must still delve into all the circumstances and conditions of the child and parent:

*** What are the child's specific needs?**

*** What are parent's specific circumstances?**

*** Has all information been shared with all parties?**

*** How was it determined that the proposed plan was the best plan?**

hearing held one year after the creation of a permanent foster care placement, the court must reconsider return to parent, adoption, and guardianship before once again finding that a permanent foster care placement is still the best available plan for the child and make all of the required findings, based on evidence considered in that subsequent hearing.

CONSIDERING REUNIFICATION AS THE PERMANENT PLAN

Even if DHS rules out reunification, the court must still inquire whether DHS could have provided other services and whether it could provide any in the future that would make reunification an option. The plan can be reunification even if return is not imminent, although return must be within a reasonable time, that is, consistent with the developmental and attachment needs of the child. ORS 419A.010(20).

If, contrary to DHS recommendations, the court determines that reunification is the appropriate plan, it has broad powers to determine the adequacy of the case plan or to order the agency to develop or expand the case plan. ORS 419B.476(4)(d) and (f). If the court finds, either sua sponte or at the request of another party, that further efforts will make it possible for the child to return safely home within a reasonable time, the court must list specific services that the parents must engage in for a specific period of time and the specific progress required in the period of time ordered. ORS 419B.476(4)(c).

Return to Parent Findings

A. Time line for return

B. Services to be provided

In determining whether reunification should be the case plan, the court should ask whether the conditions and circumstances that led to the

⁶ Greenbook, p. 19-20; ABA p. 1

removal have changed, and why reunification would be in the best interest of the child.

The visitation experience in the case can indicate whether reunification is appropriate. How frequent is visitation? What is the impact of visitation on the child? Has an expert analyzed the visitation situation?

The court that designates reunification as the case plan must contain a finding as to when the child will return home. ORS 419B.476(5)(b)(A). The designated date will depend on factors such as transition planning and the plan for support and supervision after return, as well as planning for school, childcare, respite care and the like.

CONSIDERING ADOPTION AS THE PERMANENT PLAN

If a child cannot return to the parents, ASFA presumes that the best concurrent permanency plan is to terminate parental rights and pursue adoption. An adoption is “the most immune from future legal attack and ends the need for continued state oversight.”⁷

Some factors, however, that may make adoption inappropriate for a child who cannot safely return home:

- An older child may object to being adopted.
- A younger child may be so bonded to a parent that, despite the fact that the parent will never regain custody of the child, the damage done to the child by severing the parent-child relationship will outweigh the benefit of adoption.

A professional able to assess those considerations should present information to the court, or the court should order a professional assessment if similar factors are present in a case.

⁷ Child Law Practice, Volume 20, No. 2, p. 23.

When an adoptive parent is identified and willing to participate, one option is an “open” or “cooperative” adoption, whereby the biological parents relinquish parental rights and enter into an agreement with the adopting parents for future contact. ORS 109.305. Future contact can be direct, face-to-face visits with the child, correspondence between birth and adoptive family, or providing information to the birth family about the child’s situation. DHS has a Cooperative Adoption Mediation Program that may be useful in these circumstances.

If the court finds adoption the appropriate plan for the child, it should consider whether DHS’s adoption plan is realistic. Although there are some issues with the policy in Oregon, ASFA does not require adoptive parents be identified before a child is freed for adoption. ASFA does require that DHS recruit and find an adoptive placement if one has not presented itself.⁸

Adoption Findings:

A. Applicability of the “15/22 Month Rule”

B. Why the plan is in the best interest of the child

Scrutiny of DHS’s efforts to find adoptive placements is appropriate, including whether DHS considered relatives. If the court finds other avenues to explore, it may order DHS to do so. ORS 419B.476(4)(f).

If adoptive placement is the plan, the court should consider whether DHS has made resources available to the parents to ease the transition, including:

- counseling services; and
- planning for support, including access by the adoptive parents to all medical, treatment and educational records of the child.

A judgment that designates adoption as the permanent plan must contain a finding on the

⁸ Child Law Practice, Volume 20, No. 2, P. 23.

“15/22 month rule.” ORS 419B.498(1)(a). This rule requires the state to file a termination of parental rights petition by the end of the 15th month (with limited exceptions) if a child has been in foster care for 15 of the most recent 22 months. ORS 419B.498(2). A judgment designating adoption as the plan requires a finding that one of these exceptions does **not** exist. ORS 410B.476(5)(d).

If the child will not return home, but some factor makes a plan other than adoption best for the child, the court must make a finding to that effect as part of ordering that other plan. ORS 419B.476(5)(e) and (f). A related finding is required when the child has been in foster care for 15 of the most recent past 22 months and the court orders some plan other than adoption. ORS 419B.498. One example is when the court considers termination and adoption for an Indian child. Many Indian tribes do not support adoptions that cut children off from their culture, and it is in the best interest of the children to maintain those ties, according to the Indian Child Welfare Act.

The 15/22 month rule is not expressly limited to the first permanency hearing. If a child is in permanent foster care and has been in substitute care under the supervision of the DHS for 15 of the most recent 22 months, it appears that the provisions of ORS 419B.498 applies.

CONSIDERING GUARDIANSHIP AS THE PERMANENT PLAN

In the hierarchy of AFSA’s placement preferences, guardianship is to be considered only when a child cannot return home and adoption is not appropriate.

Oregon has two guardianships that meet ASFA requirements for permanency. The juvenile court guardianship (ORS 419B.366 et seq) and the permanent guardianship (ORS 419B.365). ***A judgment designating guardianship as a permanent plan must state why these two more durable permanent plans are not***

appropriate for the child. ORS 419B.476(5)(e). These may include considerations discussed above in determining whether adoption is the best plan for the child.

Just as it does for adoption plans, the court should inquire into the planning to implement the guardianship:

- What is the plan for transition?
- What resources have been made available to the guardian?
- Have the guardians received all the education and medical records they will need to effectively parent the child?

Guardianship Findings:

A. Why return to parent or adoption is not in the best interest of the child

B. Why the guardianship is in the best interest of the child

Guardianship opens the possibility for continued contact between the child and the biological parent, which may be the reason guardianship was chosen as the plan. The court

remains involved in a guardianship (although DHS is relieved of temporary custody), retaining jurisdiction to enter orders governing visitation and child support.

CONSIDERING A PLANNED PERMANENT LIVING ARRANGEMENT AS A PERMANENT PLAN

The Planned Permanent Living Arrangement (PPLA) is considered the least desirable permanency plan because it is the least durable. ***For that reason, a judgment designating PPLA as a permanent plan must contain findings that there is a compelling reason why one of the more durable placements is not appropriate to meet the child's needs and must document what that reason is.*** ORS 419B.476(5)(f).

The court must consider the factors it considers with any other plan:

- Were reasonable/active efforts made to reunify?
- Were all resources applied to the case?
- Has there been a full disclosure of all the child's needs and conditions?
- What role will the parents play in the child's life?

PPLA Findings:

A. Why return to parent, adoption or guardianship is not in the best interest of the child

B. Why the PPLA is in the best interest of the child

PPLAs are appropriate in two situations. The first is permanent foster care where the child cannot return home and, but for one of several reasons, would be adopted. This plan is implemented by contract in which

the caretaker and DHS agree that the child will be reared to majority in the placement and the agency will provide support, barring some development that would make the child adoptable or make a guardianship appropriate.

Despite its name, however, and despite the signed agreement to rear the child to majority, the obligation remains on the agency to make efforts, reasonable to the circumstances of the child, parents and permanent foster parents, to convert the PPLA into one of the more durable placements. Those efforts form the basis of the reasonable efforts inquiry at future permanency hearings.

Other Findings:

A. Tribal affiliation if ICWA applies

B. A timetable of for return home or permanent placement, if current placement is not intended to be permanent

The second situation is not intended to be permanent. Some children are simply "unplaceable" at the time the permanency hearing takes place. They may be in residential treatment, or in a group living situation, or not able to function in a family setting. Although a PPLA may be, for the present, the appropriate permanent plan, DHS must continue efforts to return the child home or place the child in a guardianship or an adoptive placement. The judgment must contain a projected time line for return home or for another placement. ORS 419B.476(5)(g).

In this second situation the presumption is that there must be a plan for permanent, durable placement, even if it is not possible, at that time, to implement it. In this circumstance, best practice would also dictate including, within the permanency hearing judgment, the treatment plan the agency intends to follow to reach its goal of "promoting" the child to a more permanent placement in the future. The court will review the case in the future to ensure that progress is made toward permanent placement, which is commensurate with the child's circumstances.

THE JUDGMENT

The judgment must recite the court's determination of the permanent plan, as well as the findings appropriate to support that plan, as outlined above.

The permanency hearing judgment must be entered within 20 days of the hearing. Failure to hold a permanency hearing within the time lines may put the case out of compliance for the purpose of foster care reimbursement under Title IV-E, if no previous reasonable or active efforts (if the child is an Indian child and the plan remains return to parent) in the previous year. Holding the hearing, or any hearing at which the court may make the required findings at a later time results in the reimbursement beginning again from the time the judgment is entered, if the required efforts findings are

positive and made **within 60 days** of the time that the finding (a) was due, but not made, or (b) was earlier made in the negative.

The judgment should also contain information about the tribal affiliation of the child, if the Indian Child Welfare Act applies to the case, and the placement preferences of the Act apply to the case. ORS 419B.476(5)(h).

The next hearing date should also be included in the permanency hearing judgment.

SUMMARY

The permanency hearing is the time for the court to make an independent inquiry into the efforts made by all parties and into the plans proposed for the child. With a mandate to prevent the risks to the child of foster care drift, the court has great flexibility and powerful tools to fashion a permanency plan for the particular child who is the subject of the hearing. The court must have all the parties and all the information to make a good decision about what plan best meets the health and safety needs of the child, and must take great care in preparing the judgment to ensure it is not only adequate as a “compliance document,” but is practical guide to completing the steps to permanency for the child.

SUMMARY OF FINDINGS

- I. Efforts Findings
 - A. Reasonable/Active Efforts to make it possible for the child to safely return home, or
 - B. Reasonable Efforts to take steps to place the child in a timely manner and complete the steps necessary to finalize the permanent plan

- II. Permanent Plan
 - A. Return to parent
 - 1. Time line for return
 - 2. Services to be provided
 - 3. Progress expected
 - B. Adoption
 - 1. Applicability of 15/22 month rule
 - 2. Why plan is in best interest of the child
 - C. Guardianship
 - 1. Why neither return to parent nor adoption is in the child’s best interest
 - 2. Why plan is in the best interest of the child
 - D. Planned Permanent Living Arrangement
 - 1. Why neither return to parent, adoption nor guardianship is in the child’s best interest
 - 2. Why plan is in the child’s best interest

- III. Other findings
 - A. Tribal affiliation of the child if ICWA applies
 - B. If placement not intended to be permanent, a timetable for return home or to be placed in a placement intended to be permanent.

CONCURRENT PLANNING

It's about the APPLAs, Silly

Front End

▣ Making a list...

Back End

▣ Checking it twice...

Front End

Engaging parents in permanency planning process...

Paying more attention

Front End

Making a List To Prevent APPLAs

- ▣ Locate, engage, recruit relatives
- ▣ SB 414
- ▣ A chart
- ▣ A checklist

A CHECKLIST?

Part of Program Improvement Plan

What should have been done by now?

Permanency chart

Time Line for Checklist

October 1, 2008 -- first draft completed;
distributed to Model Court Teams for reaction

November 8, 2008 - revision reviewed by Training
Work Group; re-circulated to Model Court Teams

December 8, 2008 -- Advisory Committee finalizes
checklists

Back End

**Big Federal
Pressure
and not just
here in
Oregon**

- ▣ Too many APPLAS
- ▣ Search for adoptive homes
- ▣ Move them up, move them out

ROX expects *judges* to fix this. The message is "Get tough."

Back End...

Subsequent permanency hearings...
“other initiatives”

Back End

Subsequent Permanency Hearings...

Take it from the top

- Return to parent?
- Adoption?
- Custody?
- Guardianship?
- ...

Yes, you do...too

ORS 419B.476(5) -- the stair step inquiry, no skipping steps...

No exception for subsequent permanency hearings....

What's been done to try to implement each of these plans?

Subsequent permanency hearing?

- ▣ What's up with the parents? Return possible in a reasonable time?
- ▣ Will foster parents adopt? Have you searched for other adoptive parents? Relatives?
- ▣ Foster parents or relatives go for custody? Guardianship?
- ▣ Compelling reason?
- ▣ **Got all this documented?**

419B.476(5) (f) If the court determines that the permanency plan for the ward should be a planned permanent living arrangement, the court's determination of a compelling reason, that must be documented by the department, why it would not be in the best interests of the ward to be returned home, placed for adoption, placed with a legal guardian or placed with a fit and willing relative;

None Above the Line Suitable?

Then, what's the plan to develop the plan and when is that plan going to get the child to one of the above?

Begged questions...

- Is a planned permanent living arrangement really a permanent plan?
- Or is it is placeholder for a permanent plan?
- Or a stage in a permanent plan? A step in a permanent plan?
- What about reasonable efforts to implement the concurrent plan if APPLA isn't a permanent plan?

And if it's not a permanent plan

- ▣ What about reasonable efforts while the ward is in one
- ▣ Should a kid in an APPLA have a permanent plan somewhere "above the line?"
- ▣ Should a kid in an APPLA have a plan to ready them for such a placement?

Back End

- ▣ "other initiatives"

Kids more than two years in care

Identify "demonstration counties" with high numbers of >2 in APPLA

Organize and support planning to reduce numbers

**BOTTOM LINE FOR
APPLA'S IN OREGON**

Work on the Back End

And

Bet on the Front End

Consulting with Kids

Another Congressional mandate...

What is this about?

Federal Mandate

With very little guidance

And a lot of unanswered questions...that we have to answer

See 42 U.S.C. §675(5)(C)(iii) reads as follows:
(iii) procedural safeguards shall be applied to assure that in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child;

procedural safeguards shall be applied

to assure that in any permanency hearing held with respect to the child,

including any hearing regarding the transition of the child from foster care to independent living

the court or administrative body conducting the hearing consults,

with the child

in an age-appropriate manner

regarding the proposed permanency or transition plan for the child;

Guidance We Have Received

1. No need to have kids come to court
2. No need for the kids to actually express an opinion ("kids can be consulted like an atlas")

"Terrible rule as written"

A few questions...

- Should kids come to court?
- Which kids?
- Give them a choice?
- Who invites them?
- Who prepares them?

A few more questions

- If they don't come...
 - Who speaks to them?
 - How do they do that?
 - Who trains these people?
 - What are they supposed to tell the judge?

And still more (but not all) questions

- How does the judge assess this information?
- What is the judge supposed to do with this information?

Two Objectives:

1. Do not put children at risk of harm
2. Get meaningful information for the judges

Risks to Kids?

See survey results...

Risks of Useless Information?

See survey Results

How to Implement?

Statute?

Rule?

Just leave it up to how it happens?



Inclusive, Collaborative Approach

- The way to avoid risk...
- The way to maximize chances of getting good information...
- The way to get the best product



Two Phases

1. Get the protocols written
2. Implement the protocols



Phase 1 -- getting a set of protocols written

Phase 1 - Time Line

October 2008 -- Name the work group
December 2008 -- Develop expert knowledge base
January 2009 -- start writing
March 2009 -- Draft completed and circulated
June 2009 -- Final protocol completed

Phase 1 - Work Group Role

Members will attend meetings and develop drafts

Communicate with their constituencies about what is going on

Provide the work group with input from constituencies

Phase 1 - Community Role

- Process drafts & Provide feedback
- Constituencies and Model Court Teams

Phase 1 - State Role

- Organize and fund activity of work group
- Set up meetings, communicate with work group, model courts and community through the Road Show

Phase 2 -- implementing the protocols

Phase 2 - Timeline

June – August 2009 -- JCIP and DHS prepare training materials

August 2009 -- Roll out at “Eyes/Model Court” Conference

September-November 2009 – Road Show

Phase 2 – Work Group Role

Communicate with constituencies re how it's working out

Be ready to work on future modifications

Phase 2 - Community Role

- Meet to develop local plans to implement protocols
- Monitor implementation and adjust local plans

Phase 2 - State Role

- Support implementation of protocols
 - Overall training on protocols
 - Training for all sectors on their roles in the protocols



To be Avoided:

- 1. Risks to children
- 2. Useless information for the judge

Action Plan – Consulting with Kids

Collect data from stakeholders		08 07
Put data into report for Advisory Committee and send out		08 08
Explore meeting time and place (e mail to stakeholders and explore venues). Talk to possible speakers re availability		08 08 - 10
Advisory Committee discuss speakers, format of “Data Base” meeting, membership recruiting		08 09
Set up meeting time and place: finalize speakers for “data base” event		08 09
“Data base” event; advisory committee names workgroup		08 12
Put information from “data base” event into report and send out		09 01
First meeting of work group		09 01
Tentative protocols completed and distributed to Advisory Committee		09 03
Advisory Committee discusses tentative protocols		09 03
Work group revises protocols; distributes to judges, stakeholders and Advisory Committee		09 05
Present final protocols to Advisory Committee		09 06
Tweak protocols		09 06
Prepare technical support and training materials		09 08
Roll out at Eyes Conference		09 08
Train during Road Show		09 09-11
Training Materials on Web Site		09 12

2008 Road Show

Section Three

Legal Issues and the Oregon Safety Model

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“Whatever makes it harder for others in our system to do their jobs makes it harder for all the rest of us to do ours. Their problems are our problems. We are all in this together.”

S.P. Rotagnew




Legal Issues & the Oregon Safety Model

How can we better align current child welfare practice with juvenile court processes?

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Legal Issues & The OSM

- How does OSM implementation affect juvenile court practices?
- How can juvenile courts practice and language used for petitions and court orders be aligned with OSM practices and language?

It's About Behavioral Change

- Progress of parents toward Expected Outcomes (*not necessarily completion of specific services*) guides case planning & decision-making.
- Services are determined to assist parents in achieving Expected Outcomes.
- Services are regularly reviewed for appropriateness and modified as needed to assist parents in making progress to regain responsibility for safety parenting the children.

Safety versus Change

In the OSM- there are 2 types of services

Safety services

Used in a safety plan to monitor a child's safety

Change services

Used to improve a parent's protective capacities

Expected Outcomes

- when we understand what changes need to occur
- we work with parents (engagement)
- to decide which services will best get them there



*We don't know what road to take,
until we know where we're going.*

Conditions for Return

- Another, different goal for parents.
- Based on differences between safety & change.
- What it takes to have an in-home safety plan.



**Can OSM language
be used in
dispositional orders
& petitions?**

Dispositional Orders

- Change what is expected of parents

Add sections for-

- 1- Expected Outcomes
- 2- Conditions for return

Safety Model Language for Petitions?

- 1st- *legal basis for allegation* (statutory language)
ORS 419B.100 (1) Conditions and circumstances of the above-named children are such to endanger the children's welfare
- 2nd- *safety threat language*
Insert one area of new language
- 3rd- *facts of the case, vis*
Sufficient facts or examples to support the basis of the allegation or the identified safety threats

Notice versus Fact Pleading

Oregon is a notice pleading state.



Is there a *rational relationship*
between
Expected Outcomes in the order and
allegations in the petition?



Moving Forward

- Identify and prepare information & tools
- Find opportunities for discussion among judges, attorneys & child welfare staff to seek overall improvement in dependency processes and outcomes for children and families
- ABA/NRCCPS Judge's Bench Book
- *Your thoughts about how to proceed?*



PROTECTIVE CAPACITY REFERENCE

Enhancing Protective Capacities in the Case Plan: What Behavior Must Change

Protective Capacity

"Protective capacity" means behavioral, cognitive, and emotional characteristics that can specifically and directly be associated with a person's ability to care for and keep a child safe.

Criteria for Determining Protective Capacities

- The characteristic prepares the person to be protective.
- The characteristic enables or empowers the person to be protective.
- The characteristic is necessary or fundamental to being protective.
- The characteristic must exist prior to being protective.
- The characteristic can be related to acting or being able to act on behalf of a child.

Behavioral Protective Capacities

<p><u>The parent has a history of protecting.</u></p>	<p>This refers to a person with many experiences and events in which he or she has demonstrated clear and reportable evidence of having been protective. Examples might include:</p> <ul style="list-style-type: none"> • People who've raised children (now older) with no evidence of maltreatment or exposure to danger. • People who've protected his or her children in demonstrative ways by separating them from danger, seeking assistance from others, or similar clear evidence. • Parents and other reliable people who can describe various events and experiences where protectiveness was evident.
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<p><u>The parent takes action.</u></p>	<p>This refers to a person who is action-oriented as a human being, not just a caregiver.</p> <ul style="list-style-type: none"> • People who perform when necessary. • People who proceed with a course of action. • People who take necessary steps. • People who are expedient and timely in doing things. • People who discharge their duties.
<p><u>The parent demonstrates impulse control.</u></p>	<p>This refers to a person who is deliberate and careful; who acts in managed and self-controlled ways.</p> <ul style="list-style-type: none"> • People who do not act on their urges or desires. • People that do not behave as a result of outside stimulation. • People who avoid whimsical responses. • People who think before they act. • People who are playful.
<p><u>The parent is physically able.</u></p>	<p>This refers to people who are sufficiently healthy, mobile and strong.</p> <ul style="list-style-type: none"> • People who can chase down children. • People who can lift children. • People who are able to restrain children. • People with physical abilities to effectively deal with dangers like fires or physical threats.
<p><u>The parent has/demonstrates adequate skill to fulfill care giving responsibilities.</u></p>	<p>This refers to the possession and use of skills that are related to being protective.</p> <ul style="list-style-type: none"> • People who can feed, care for, supervise children according to their basic needs. • People who can handle, manage, oversee as related to protectiveness. • People who can cook, clean, maintain, guide, shelter as related to protectiveness.

<p><u>The parent possesses adequate energy.</u></p>	<p>This refers to the personal sustenance necessary to be ready and on the job of being protective.</p> <ul style="list-style-type: none"> • People who are alert and focused. • People who can move, are on the move, ready to move, will move in a timely way. • People who are motivated and have the capacity to work and be active. • People express force and power in their action and activity. • People who are not lazy or lethargic. • People who are rested or able to overcome being tired.
<p><u>The parent sets aside her/his needs in favor of a child.</u></p>	<p>This refers to people who can delay gratifying their own needs, who accept their children’s needs as a priority over their own.</p> <ul style="list-style-type: none"> • People who do for themselves after they’ve done for their children. • People who sacrifice for their children. • People who can wait to be satisfied. • People who seek ways to satisfy their children’s needs as the priority.
<p><u>The parent is adaptive as a caregiver.</u></p>	<p>This refers to people who adjust and make the best of whatever caregiving situation occurs.</p> <ul style="list-style-type: none"> • People who are flexible and adjustable. • People who accept things and can move with them. • People who are creative about caregiving. • People who come up with solutions and ways of behaving that may be new, needed and unfamiliar but more fitting.
<p><u>The parent is assertive as a caregiver.</u></p>	<p>This refers to being positive and persistent.</p> <ul style="list-style-type: none"> • People who are firm and convicted. • People who are self-confident and self-assured. • People who are secure with themselves and their ways. • People who are poised and certain of themselves. • People who are forceful and forward.

<p><u>The parent uses resources necessary to meet the child's basic needs.</u></p>	<p>This refers to knowing what is needed, getting it and using it to keep a child safe.</p> <ul style="list-style-type: none"> • People who get people to help them and their children. • People who use community public and private organizations. • People who will call on police or access the courts to help them. • People who use basic services such as food and shelter.
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<p><u>The parent supports the child.</u></p>	<p>This refers to actual, observable sustaining, encouraging and maintaining a child's psychological, physical and social well-being.</p> <ul style="list-style-type: none"> • People who spend considerable time with a child filled with positive regard. • People who take action to assure that children are encouraged and reassured. • People who take an obvious stand on behalf of a child.
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Cognitive Protective Capacities

<p><u>The parent plans and articulates a plan to protect the child.</u></p>	<p>This refers to the thinking ability that is evidenced in a reasonable, well-thought-out plan.</p> <ul style="list-style-type: none"> • People who are realistic in their idea and arrangements about what is needed to protect a child. • People whose thinking and estimates of what dangers exist and what arrangement or actions are necessary to safeguard a child. • People who are aware and show a conscious focused process for thinking that results in an acceptable plan. • People whose awareness of the plan is best illustrated by their ability to explain it and reason out why it is sufficient.
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<p><u>The parent is aligned with the child.</u></p>	<p>This refers to a mental state or an identity with a child.</p> <ul style="list-style-type: none"> • People who strongly think of themselves as closely related to or associated with a child. • People who think that they are highly connected to a child and therefore responsible for a child’s well-being and safety. • People who consider their relationship with a child as the highest priority.
<p><u>The parent has adequate knowledge to fulfill care giving responsibilities and tasks.</u></p>	<p>This refers to information and personal knowledge that is specific to care giving that is associated with protection.</p> <ul style="list-style-type: none"> • People who know enough about child development to keep kids safe. • People who have information related to what is needed to keep a child safe. • People who know how to provide basic care which assures that children are safe.
<p><u>The parent is reality oriented; perceives reality accurately.</u></p>	<p>This refers to mental awareness and accuracy about one’s surroundings, correct perceptions of what is happening, and the viability and appropriateness of responses to what is real and factual.</p> <ul style="list-style-type: none"> • People who describe life circumstances accurately. • People who recognize threatening situations and people. • People who do not deny reality or operate in unrealistic ways. • People who are alert to danger within persons and the environment. • People who are able to distinguish threats to child safety.

<p><u>The parent has accurate perceptions of the child.</u></p>	<p>This refers to seeing and understanding a child’s capabilities, needs and limitations correctly.</p> <ul style="list-style-type: none"> • People who know what children of certain age or with particular characteristics are capable of. • People who respect uniqueness in others. • People who see a child exactly as the child is and as others see the child. • People who recognize the child’s needs, strengths and limitations. People who can explain what a child requires, generally, for protection and why. • People who see and value the capabilities of a child and are sensitive to difficulties a child experiences. • People who appreciate uniqueness and difference. • People who are accepting and understanding.
<p><u>The parent understands his/her protective role.</u></p>	<p>This refers to awareness...knowing there are certain solely owned responsibilities and obligations that are specific to protecting a child.</p> <ul style="list-style-type: none"> • People who possess an internal sense and appreciation for their protective role. • People who can explain what the “protective role” means and involves and why it is so important. • People who recognize the accountability and stakes associated with the role. • People who value and believe it is his/her primary responsibility to protect the child.
<p><u>The parent is self-aware as a caregiver.</u></p>	<p>This refers to sensitivity to one’s thinking and actions and their effects on others – on a child.</p> <ul style="list-style-type: none"> • People who understand the cause – effect relationship between their own actions and results for their children • People who are open to who they are, to what they do, and to the effects of what they do. • People who think about themselves and judge the quality of their thoughts, emotions and behavior. • People who see that the part of them that is a caregiver is unique and requires different things from them.

Emotional Protective Capacities

<p><u>The parent is able to meet own emotional needs.</u></p>	<p>This refers to satisfying how one feels in reasonable, appropriate ways that are not dependent on or take advantage of others, in particular, children.</p> <ul style="list-style-type: none"> • People who use personal and social means for feeling well and happy that are acceptable, sensible and practical. • People who employ mature, adult-like ways of satisfying their feelings and emotional needs. • People who understand and accept that their feelings and gratification of those feelings are separate from their child.
<p><u>The parent is emotionally able to intervene to protect the child.</u></p>	<p>This refers to mental health, emotional energy and emotional stability.</p> <ul style="list-style-type: none"> • People who are doing well enough emotionally that their needs and feelings don't immobilize them or reduce their ability to act promptly and appropriately. • People who are not consumed with their own feelings and anxieties. • People who are mentally alert, in touch with reality. • People who are motivated as a caregiver and with respect to protectiveness.
<p><u>The parent is resilient as a caregiver.</u></p>	<p>This refers to responsiveness and being able and ready to act promptly.</p> <ul style="list-style-type: none"> • People who recover quickly from set backs or being upset. • People who spring into action. • People who can withstand. • People who are effective at coping as a caregiver.
<p><u>The parent is tolerant as a caregiver.</u></p>	<p>This refers to acceptance, allowing and understanding, and respect.</p> <ul style="list-style-type: none"> • People who can let things pass. • People who have a big picture attitude, who don't over react to mistakes and accidents. • People who value how others feel and what they think.

<p><u>The parent displays concern for the child and the child’s experience and is intent on emotionally protecting the child.</u></p>	<p>This refers to a sensitivity to understand and feel some sense of responsibility for a child and what the child is going through in such a manner to compel one to comfort and reassure.</p> <ul style="list-style-type: none"> • People who show compassion through sheltering and soothing a child. • People who calm, pacify and appease a child. • People who physically take action or provide physical responses that reassure a child, that generate security.
<p><u>The parent and child have a strong bond, and the parent is clear that the number one priority is the well-being of the child.</u></p>	<p>This refers to a strong attachment that places a child’s interest above all else.</p> <ul style="list-style-type: none"> • People who act on behalf of a child because of the closeness and identity the person feels for the child. • People who order their lives according to what is best for their children because of the special connection and attachment that exists between them. • People whose closeness with a child exceeds other relationships. • People who are properly attached to a child.
<p><u>The parent expresses love, empathy and sensitivity toward the child; experiences specific empathy with the child’s perspective and feelings.</u></p>	<p>This refers to active affection, compassion, warmth and sympathy.</p> <ul style="list-style-type: none"> • People who fully relate to, can explain, and feel what a child feels, thinks and goes through. • People who relate to a child with expressed positive regard and feeling and physical touching. • People who are understanding of children and their life situation.

OREGON SAFETY THREATS GUIDE

IMPENDING DANGER THREATS

(*THIS GUIDE HAS BEEN MODIFIED FROM THE ACTION FOR CHILD PROTECTION GUIDE)

This guide identifies and explains the 15 universal safety threats and includes a 16th safety threat added in the Oregon Child Welfare Safety Model. Remember that safety threats present in the form of behavior, conditions, or circumstances. Examples within this reference guide refer to impending danger. Regarding any family behavior, condition, or circumstance being considered as a safety threat, remember that the safety threshold criteria must always apply.

- 1. The family *situation* is such that no adult in the home is routinely performing parenting duties and responsibilities that assure child safety.**

This refers only to adults (not children) in a caregiving role. Duties and responsibilities related to the provision of food, clothing, shelter, and supervision are to be considered at such a basic level that the absence of these basic provisions directly affect the safety of a child. This includes situations in which parents'/caregivers' whereabouts are unknown. The parent's/caregiver's whereabouts are unknown while the CPS initial assessment is being completed and this is affecting child safety. This safety threat applies when a child's parent or caregiver is present and available but does not provide supervision or basic care. The failure to provide supervision and basic care may be due to avoidance of protective care and duties or physical incapacity. In such instances, this safety threat is considered if no other parent/caregiver issues co-exist with the lack of supervision like substance use or mental health. Compare this threat to the safety threat concerned with impulsiveness and lack of self-control.

Application of the Safety Threshold Criteria

The parent or caregiver who normally is responsible for protecting the child is absent, likely to be absent or is incapacitated in some way or becomes incapacitated and is not available. Nothing within the family can compensate for the condition of the parent or caregiver which meets the out-of-control criterion. An unexplained absence of parents/caregivers is obviously a situation that is out-of-control. Without explanation, the children have been abandoned and are totally subject to the whims of life and others. They are totally without parent or caregiver protection. Nothing can control the absence of the parents or caregivers.

Duties and responsibilities are at a critical level that if not addressed represent a specific danger or threat is posed to a vulnerable child. The lack of meeting these basic duties and responsibilities could result in a child being seriously injured, kidnapped, seriously ill, even dying. Regarding absent parents/caregivers and in the absence of a family network that imposes itself, vulnerable children left without parents or caregivers will suffer serious effects.

That the severe effects could occur in the now or in the near future is based on understanding what circumstances are associated with the parent's or caregiver's absence or incapacity, the home condition, and the lack of other adult supervisory supports. The absence of parents or caregivers meets the imminence criteria. The threat is immediate.

This threat includes both behaviors and emotions as illustrated in the following examples:

- Parent's/caregiver's physical or mental disability/incapacitation renders the person unable and unavailable to provide basic care for the children.
- Parent/caregiver is or has been absent from the home for lengthy periods of time, and no other adults are available to provide basic care.
- Parents/caregivers have abandoned the children.
- Parents arranged care by an adult, but the parents'/primary caregivers' whereabouts are unknown or they have not returned according to plan, and the current caregiver is asking for relief.
- Parent/caregiver is or will be incarcerated, thereby leaving the children without a responsible adult to provide care.
- Parent/caregiver does not respond to or ignores a child's basic needs.
- Parent/caregiver allows child to wander in and out of the home or through the neighborhood without the necessary supervision.
- Parent/caregiver ignores; does not provide necessary, protective supervision and basic care appropriate to the age and capacity of a child.
- Parent/caregiver is unavailable to provide necessary, protective supervision and basic care because of physical illness or incapacity.
- Parent/caregiver allows other adults to improperly influence (drugs, alcohol, abusive behavior) the child, and the parent/caregiver is present or approves.
- Child has been abandoned or left with someone who does not know the parent/caregiver.
- Parent/caregiver has left the child with someone and not returned as planned.
- Parent/caregiver did not express plans to return or the parent/caregiver has been gone longer than expected or what would be normally acceptable.
- No one knows the parent's/caregiver's identity.
- Parents'/caregivers' unexplained absence exceeds a few days.

2. One or both parents' or caregivers' behavior is violent and/or they are acting (*behaving*) dangerously.

Violence refers to aggression, fighting, brutality, cruelty and hostility. It may be immediately observable, regularly active or generally potentially active. When seen in an intimate partner relationship the violence is generally part of a pattern of power and control which one partner exerts over the other.

Application of the Safety Threshold Criteria

To be out-of-control, the violence must be active. It moves beyond being angry or upset, particularly related to a specific event. The violence is representative of the person's state-of-mind and is likely pervasive in terms of the way the person feels and acts. There is nothing within the family or household that can counteract the violence.

The active aspect of this behavior and could easily result in aggression toward family members and children, specifically, who may be targets or bystanders. Vulnerable children are those who cannot self-protect, who cannot get out of the way and who have no adult who is able to protect them and/or may intervene in the violence. These children could experience severe physical or emotional effects from the violence. The severe effects could include serious physical injury, terror or death.

The judgment about imminence is based on sufficient understanding of the dynamics and patterns of violent behavior. It is conclusive that the violence and likely harmful effects could or will occur soon to the extent that the violence:

- Is a pervasive aspect of a person's character or a family dynamic.
- May or may not be predictable.
- Has a standing history or there is a recent severe incident.

This threat includes behaviors as illustrated in the following examples:

- Violence includes hitting, beating, physically assaulting a child, spouse or other family member.
- Violence includes acting dangerously toward a child or others, including throwing things, brandishing weapons, aggressively intimidating and terrorizing. This includes making believable threats of homicide or suicide.
- Family violence involves physical and verbal assault on a parent, caregiver or member of the child's household, in the presence of a child, the child witnesses the activity and the child demonstrates an observable, significant effect.
- Family violence occurs and a child has been assaulted or attempted to intervene.
- Family violence occurs and a child could be inadvertently harmed even though the child may not be the actual target of the violence.
- Parent/caregiver whose behavior outside of the home (e.g., drugs, violence, aggressiveness, hostility) creates an environment within the home which threatens child safety (e.g., drug labs, gangs, drive-by shootings).
- Due to the batterer's controlling behavior, the child's basic needs are unmet.

3. One or both parents' or caregivers' *behavior* is impulsive or they will not/cannot control their *behavior*.

This threat is concerned with self-control. It is concerned with a person's ability to postpone, to set aside needs; to plan; to be dependable; to avoid destructive behavior; to use good judgment; to not act on impulses; to exert energy and action; to inhibit; to manage emotions; and so on. This is concerned with self-control as it relates to child safety and protecting children. So, it is the lack of parent or caregiver self-control that places vulnerable children in jeopardy. This threat also includes parents or caregivers who are incapacitated or not controlling their behavior because of mental health or substance abuse. This safety threat is different than the first safety threat concerned with no adult in the home to routinely provide supervision and protection. That safety threat is based on consistent neglectful parent's or caregiver's behavior; this safety threat is tied specifically to a caregiver's spontaneous reactions or failure to control their behavior.

Application of the Safety Threshold Criteria

This threat is self-evident as related to meeting the out-of-control criterion. Beyond what is mentioned in the definition, this includes parents or caregivers who cannot control their emotions, resulting in sudden explosive temper outbursts; spontaneous uncontrolled reactions; loss of control during high stress or at specific times like while punishing a child. Typically, application of the out-of-control criterion may lead to observations of behavior but, clearly, much of self-control issues rest in emotional areas. Emotionally disturbed parents or caregivers may be out of touch with reality or so depressed that they represent a danger to their child or are unable to perform protective duties. Finally, those who use substances may have become sufficiently dependent that they have lost their ability for self-control in areas concerned with protection.

Severity should be considered from two perspectives. The lack of self-control is significant. That means that it has moved well beyond the person's capacity to manage it regardless of self-awareness, and the lack of control is concerned with serious matters as compared to, say, the lack of self-control to exercise. The effects of the threat could result in severe effects as parents or caregivers lash out at children, fail to supervise children, leave children alone or leave children in the care of irresponsible others.

A presently evident and standing problem of poor impulse control or lack of self-control establishes the basis for imminence. Since the lack of self-control is severe, the examples of it should be rather clear and add to the certainty one can have about severe effects probably occurring in the near future.

This includes behaviors, other than aggression or emotion that affect child safety as illustrated in the following examples.

- Parent/caregiver is unable to perform basic care, duties, fulfill essential protective duties.
- Parent/caregiver is seriously depressed and unable to control emotions or behaviors.
- Parent/caregiver is chemically dependent and unable to control the dependency's effects.

- A substance abuse problem renders the parents/primary caregivers incapable of routinely/consistently attending to the children's basic needs.
- Parent/caregiver makes impulsive decisions and plans which leave the children in precarious situations (e.g., unsupervised, supervised by an unreliable parent or caregiver).
- Parent/caregiver spends money impulsively resulting in a lack of basic necessities.
- Parent/caregiver is emotionally immobilized (chronically or situationally) and cannot control behavior.
- Parent/caregiver has addictive patterns or behaviors (e.g., addiction to substances, gambling or computers) that are uncontrolled and leave the children in unsafe situations (e.g., failure to supervise or provide other basic care).
- Parent/caregiver is delusional and/or experiencing hallucinations.
- Parent/caregiver cannot or will not control sexual offending behavior.
- Parent/caregiver is seriously depressed and functionally unable to meet the children's basic needs.

4. Parents' or Caregivers' perceptions of a child are extremely negative.

"Extremely" is meant to suggest a perception which is so negative that, when present, it creates child safety concerns. In order for this threat to be checked, these types of perceptions must be present and the perceptions must be inaccurate.

Application of the Safety Threshold Criteria

This refers to exaggerated perceptions. It is out-of-control because their point of view of the child is so extreme and out of touch with reality that it compels the parent or caregiver to react to or avoid the child. The perception of the child is totally unreasonable. No one in or outside the family has much influence on altering the parent's or caregiver's perception or explaining it away to the parent or caregiver. It is out-of-control.

The extreme negative perception fuels the parent's or caregiver's emotions and could escalate the level of response toward the child. The extreme perception may provide justification to the parent or caregiver for acting out or ignoring the child. Severe effects could occur with a vulnerable child such as serious physical injury, extreme neglect related to medical and basic care, failure to thrive, etc.

The extreme perception is in place not in the process of development. It is pervasive concerning all aspects of the child's existence. It is constant and immediate in the sense of the very presence of the child in the household or in the presence of the parent or caregiver. Anything occurring in association with the standing perception could trigger the parent or caregiver to react aggressively or totally withdraw at any time and, certainly, it can be expected within the near future.

This threat is illustrated by the following examples.

- Child is perceived to be evil, demon-possessed, deformed or deficient.
- Child has taken on the same identity as someone the parent/caregiver hates and is fearful of or hostile towards, and the parent/caregiver transfers feelings and perceptions of the person to the child.
- Child is considered to be punishing or torturing the parent/caregiver.
- One parent/caregiver is jealous of the child and believes the child is a detriment or threat to the parents'/primary caregivers' relationship and stands in the way of their best interests.
- Parent/caregiver sees child as an undesirable extension of self and views child with some sense of purging or punishing.
- Parent/caregiver sees the child as responsible and accountable for the parent/caregiver's problems; blames the child; perceives, behaves, acts out toward the child based on a lack of reality or appropriateness because of their own needs or issues.

5. A family *situation or behavior* is such that the family does not have or use resources necessary to assure a child's safety.

“Basic needs” refers to the family's lack of (1) minimal resources to provide shelter, food, and clothing or (2) the capacity to use resources if they were available.

Application of the Safety Threshold Criteria

There could be two things out-of-control here. There are not sufficient resources to meet the safety needs of the child. There is nothing within the family's reach to address and control the absence of needed protective resources. The second question of control is concerned with the parent or caregiver's lack of control related to either impulses about use of resources or problem solving concerning with use of resources.

The lack of resources must be so acute that their absence could have a severe effect right away. The absence of these basic resources could cause serious injury, serious medical or physical health problems, starvation, or serious malnutrition.

Imminence is judged by context. What context exists today concerning the lack of resources? If extreme weather conditions or sustained absence of food define the context, then the certainty of severe effects occurring soon is evident. This certainty is influenced by the specific characteristics of a vulnerable child (e.g. infant, ill, fragile, etc.).

This threat is illustrated in the following examples.

- Family has insufficient food, clothing, or shelter affecting child safety.
- Family finances are insufficient to support needs (e.g. medical care) that, if unmet, could result in a threat to child safety.

- Parents/caregivers lack life management skills to properly use resources when they are available.
- Family is routinely using their resources for things (e.g., drugs) other than their basic care and support thereby leaving them without their basic needs being adequately met.
- Child's basic needs exceed normal expectations because of unusual conditions (e.g., disabled child) and the family is unable to adequately address the needs.

6. One or both parents' or caregivers' attitudes, emotions and behavior are such that they are threatening to severely harm a child or are fearful they will abuse or neglect the child and/or request placement.

This refers to parents or caregivers who are directing threats to hurt a child. Their emotions and intentions are hostile, menacing and sufficiently believable to conclude grave concern for a child's safety. This also refers to parents or caregivers who express anxiety and dread about their ability to control their emotions and reactions toward their child. This expression represents a "call for help."

Application of the Safety Threshold Criteria

Out-of-control is consistent with conditions within the home having progressed to a critical point. The level of aggravation, intolerance or dread as experienced by the parent or caregiver is serious and high. This is no passing thing the parent or caregiver is feeling. The parent or caregiver is or feels out-of-control. The parent or caregiver is either afraid of what he or she might do or beyond self-limits and forbearance. A request for placement is extreme evidence with respect to a parent's or caregiver's conclusion that the child can only be safe if he or she is away from the parent or caregiver.

Presumably, the parent or caregiver who is threatening to hurt a child or is admitting to an extreme concern for mistreating a child recognizes that his or her reaction could be very serious and could result in severe effects on a vulnerable child. The parent or caregiver has concluded that the child is vulnerable to experiencing severe effects.

The parent or caregiver establishes that imminence applies. The threat to severely harm, admission or expressed anxiety is sufficient to conclude that the parent or caregiver might react toward the child at any time and it could be in the near future.

This threat is illustrated in the following examples.

- Parents/caregivers use specific threatening terms including even identifying how they will harm the child or what sort of harm they intend to inflict.
- Parents/caregivers threats are plausible, believable; may be related to specific provocative child behavior.
- Parents/caregivers state they will maltreat.
- Parent/caregiver describes conditions and situations which stimulate them to think about maltreating.
- Parent/caregiver talks about being worried about, fearful of, or preoccupied with maltreating the child.

- Parent/caregiver identifies things that the child does that aggravate or annoy the parent/caregiver in ways that make the parent want to attack the child.
- Parent/caregiver describes disciplinary incidents that have become out-of-control.
- Parents/caregivers are distressed or “at the end of their rope,” and are asking for some relief in either specific (e.g., “take the child”) or general (e.g., “please help me before something awful happens”) terms.
- One parent/caregiver is expressing concerns about what the other parent/caregiver is capable of or may be doing.

7. One or both parents’ or caregivers’ attitudes or emotions are such that they intend(ed) to seriously hurt the child.

This refers to parents or caregivers who anticipate acting in a way that will result in pain and suffering. “Intended” suggests that before or during the time the child was mistreated, the parents’/primary caregivers’ conscious purpose was to hurt the child. This threat must be distinguished from an incident in which the parent/caregiver meant to discipline or punish the child and the child was inadvertently hurt. “Seriously” refers to an intention to cause the child to suffer. This is more about a child’s pain than any expectation to teach a child.

Application of the Safety Threshold Criteria

This safety threat seems to contradict the criterion “out-of-control.” People who “plan” to hurt someone apparently are very much under control. However, it is important to remember that “out-of-control” also includes the question of whether there is anything or anyone in the household or family that can control the safety threat. In order to meet this criterion, a judgment must be made that 1) the acts were intentional; 2) the objective was to cause pain and suffering; and 3) nothing or no one in the household could stop the behavior.

Parents or caregivers who intend to hurt their children can be considered to behave and have attitudes that are extreme or severe. Furthermore, the whole point of this safety threat is pain and suffering which is consistent with the definition of severe effects.

While it is likely that often this safety threat is associated with punishment and that a judgment about imminence could be tied to that context, it seems reasonable to conclude that parents or caregivers who hold such heinous feelings toward a child could act on those at any time – soon.

This threat includes both behaviors and emotions as illustrated in the following examples.

- The incident was planned or had an element of premeditation and there is no remorse.
- The nature of the incident or use of an instrument can be reasonably assumed to heighten the level of pain or injury (e.g., cigarette burns) and there is no remorse.

- Parent's/caregiver's motivation to teach or discipline seems secondary to inflicting pain and/or injury and there is no remorse.
- Parent/caregiver can reasonably be assumed to have had some awareness of what the result would be prior to the incident and there is no remorse.
- Parent's/caregiver's actions were not impulsive, there was sufficient time and deliberation to assure that the actions hurt the child, and there is no remorse.
- Parent/caregiver does not acknowledge any guilt or wrongdoing, and there was intent to hurt the child.
- Parent/caregiver intended to hurt the child and shows no empathy for the pain or trauma the child has experienced.
- Parent/caregiver may feel justified; may express that the child deserved it and they intended to hurt the child.

8. A situation, attitudes and/or behavior is such that one or both parents or caregivers lack parenting knowledge, skills, and motivation necessary to assure a child's safety.

This refers to basic parenting that directly affects a child's safety. It includes parents/primary caregivers lacking the basic knowledge or skills which prevent them from meeting the child's basic needs or the lack of motivation resulting in the parents/primary caregivers abdicating their role to meet basic needs or failing to adequately perform the parental role to meet the child's basic needs. This inability and/or unwillingness to meet basic needs creates child safety concerns.

Application of the Safety Threshold Criteria

When is this family condition out-of-control? Parents or caregivers who do not know and understand how to provide the most basic care such as feeding infants, hygiene care, or immediate supervision. The lack of knowledge is out-of-control since it must be consistent with capacity problems such as serious ignorance, retardation, social deprivation, and so forth. Skill, on the other hand, must be considered differently than knowledge. People can know things but not be performing or just don't perform. The lack of aptitude must be clear. The basis for ineptness may vary. Parents or caregivers may be hampered by cognitive, social, or emotional influences. Motivation is yet another matter. People may be very capable and may have plenty of pertinent knowledge, but simply don't care or can't generate sufficient energy to act. Remember, any of these are out-of-control by virtue of the behavior of the parent or caregiver and the absence of any controls internal to the family.

This threat is illustrated in the following examples.

- Parent's/caregiver's intellectual capacities affect judgment and/or knowledge in ways that prevent the provision of adequate basic care.
- Young or intellectually limited parents/primary caregivers have little or no knowledge of a child's needs and capacity.
- Parent's/caregiver's expectations of the child far exceed the child's capacity thereby placing the child in unsafe situations.

Appendix 2.4

- Parent/caregiver does not know what basic care is or how to provide it (e.g., how to feed or diaper, how to protect or supervise according to the child's age).
- Parents'/caregivers' parenting skills are exceeded by a child's special needs and demands in ways that affect safety.
- Parent's/caregiver's knowledge and skills are adequate for some children's ages and development, but not for others (e.g., able to care for an infant, but cannot control a toddler).
- Parent/caregiver does not want to be a parent and does not perform the role, particularly in terms of basic needs.
- Parent/caregiver is averse to parenting and does not provide basic needs.
- Parent/caregiver avoids parenting and basic care responsibilities.
- Parent/caregiver allows others to parent or provide care to the child without concern for the other person's ability or capacity (whether known or unknown).
- Parent/caregiver does not know or does not apply basic safety measures (e.g., keeping medications, sharp objects, or household cleaners out of reach of small children).
- Parents/caregivers place their own needs above the children's needs thereby affecting the children's safety.
- Parents/caregivers do not believe the children's disclosure of abuse/neglect even when there is a preponderance of evidence and this affects the children's safety.

9. Parents' or Caregivers' *attitudes and behavior* result in overtly rejecting CPS intervention, refusing access to a child, and/or there is some indication that the caregivers will flee.

This threat is selected if the facts suggest that the family is acting in such a way in order to hide the child from CPS. Attempts to avoid CPS access to a child can include overtly rejecting all attempts by CPS to enter the home, see a child, and conduct routine initial assessment information collection. The key to parents or caregivers rejecting CPS involvement is the term "overt." The rejection is far more than a failure to cooperate, open anger or hostility about CPS involvement or other signs of general resistance or reluctance. Rejecting CPS intervention must be blatant to meet the safety threshold criteria. This safety threat applies also when there are indications that a family will change residences, leave the jurisdiction, or refuse access to the child. In all instances when a family is avoiding any intervention by CPS, the current status of the child or the potential consequences for the child must be considered severe and immediate.

Application of the Safety Threshold

Like other safety threats, it appears when people do things deliberately that they are under control. Certainly overt rejection of CPS or an attempt to flee must be considered a deliberate act to prevent CPS from having access to a child; it is a planned-out intention to hide a child. People who solve their problems by such behavior can be considered to be out-of-control and desperate. Furthermore, parents or caregivers who need to keep secret what is happening in their family represent people who are out-of-control. Certainly, families who are transient for purpose of keeping things secret do not possess within their ranks anything that serves to control such behavior. Overt rejection of CPS could be an expression of a parent's/caregiver's rights; however, until access to the child can be gained through legal means, the conclusion about the rejection representing a safety threat remains the same.

Judging severity is speculative with respect to this safety threat. An assumption prevails concerned with a conservative point of view that parents or caregivers who overtly reject CPS intervention as defined here or who might flee are doing so for some critical reason. It is consistent with a "worst scenario" perspective. A child might already be seriously hurt or may be in serious danger.

Imminence is obvious. Fleeing can happen immediately. The van could be packed and the family gone by this evening. People who flee are desperate and act very impulsively. Overt rejection of intervention immediately results in no access to a child and to the opportunity to determine if a child is safe.

This threat is illustrated in the following examples.

- Parents/caregivers avoid talking with CPS; refuse to allow CPS access to the home.
- Parents/caregivers manipulate in order to avoid any contact with CPS; make excuses for not participating; miss appointments; go through various means and methods to avoid CPS involvement and any access to a child.
- Parents/caregivers avoid allowing CPS to see or speak with a child; do not inform CPS where the child is located.
- Family is highly transient.
- Family has little tangible attachments (e.g., job, home, property, extended family).
- Parent/caregiver is evasive, manipulative, suspicious.
- There is precedence for avoidance and flight.
- There are or will be civil or criminal complications that the family wants to avoid.
- There are other circumstances prompting flight (e.g., warrants, false identities uncovered, criminal convictions, financial indebtedness).

10. Parents' or Caregivers' attitude, behavior, perception result in the refusal and/or failure to meet a child's exceptional needs that affect his/her safety.

“Exceptional” refers to specific child conditions (e.g., developmental disability, blindness, physical disability, special medical needs), which are either organic or naturally induced as opposed to induced by parents or caregivers. The key here is that the parents/caregivers, by not addressing the child's exceptional needs, will not or cannot meet the child's basic safety needs.

Application of the Safety Threshold Criteria

The parent's or caregiver's ability and/or attitude are what is out-of-control. If you can't do something, you have no control over the task. If you do not want to do something and therefore do not do it but you are the principal person who must do the task, then no control exists either. If you are not doing what is required to assure the exceptional needs are being met daily, then, nothing within the family is assuring control.

This does not refer to parents or caregivers who do not do very well at meeting a child's needs. This refers to specific deficiencies in parenting that must occur and are required for the “exceptional” child to be safe. The status of the child helps to clarify the potential for severe effects. Clearly, “exceptional” includes physical and mental characteristics that result in a child being highly vulnerable and unable to protect or fend for him or herself.

The needs of the child are acute, require immediate and constant attention. The attention and care is specific and can be related to severe results when left unattended. Imminence is obvious. Severe effects could be immediate to soon.

This threat is illustrated in the following examples.

- Child has a physical or mental condition that, if untreated, is a safety threat.
- Parent/caregiver does not recognize the condition.
- Parent/caregiver views the condition as less serious than it is.
- Parent/Caregiver refuses to obtain treatment for the child who threatens suicide, attempts suicide, or appears to be having suicidal thoughts.
- Child is so withdrawn that basic needs are not being met.
- Parent/caregiver refuses to address the condition for religious or other reasons.
- Parent/caregiver lacks the capacity to fully understand the condition or the safety threat.
- Parent's/caregiver's expectations of the child are totally unrealistic in view of the child's condition.
- Parent/caregiver allows the child to live or be placed in situations in which harm is increased by virtue of the child's condition.

11. The family *situation* is such that living arrangements seriously endanger the child's physical health.

This threat refers to conditions in the home which are immediately life threatening or seriously endangering a child's physical health (e.g., people discharging firearms without regard to who might be harmed; the lack of hygiene is so dramatic as to cause or potentially cause serious illness). Physical health includes serious injuries that could occur because of the condition of the living arrangement.

Application of the Safety Threshold Criteria

To be out-of-control, this safety threat does not include situations that are not in some state of deterioration. The threat to a child's safety and immediate health is obvious. There is nothing within the family network that can alter the conditions that prevail in the environment.

The living arrangements are at the end of the continuum for deplorable and immediate danger. Vulnerable children who live in such conditions could become deathly sick, experience extreme injury, or acquire life threatening or severe medical conditions.

Remaining in the environment could result in severe injuries and health repercussions today, this evening, or in the next few days.

This threat is illustrated in the following examples.

- The family home is being used for methamphetamine production; products and materials used in the production of methamphetamine are being stored and are accessible within the home.
- Housing is unsanitary, filthy, infested, a health hazard.
- The house's physical structure is decaying, falling down.
- Wiring and plumbing in the house are substandard, exposed.
- Furnishings or appliances are hazardous.
- Heating, fireplaces, stoves, are hazardous and accessible.
- There are natural or man-made hazards located close to the home.
- The home has easily accessible open windows or balconies in upper stories.
- Occupants in the home, activity within the home, or traffic in and out of the home present a specific threat to a child's safety.
- People abusing substances, high, under the influence of substances particularly that can result in violent, sexual or aggressive behavior are routinely in the home, party in the home or have frequent access to the home while under the influence.

- People frequenting the home in order to sell drugs or who are involved in other criminal behavior that might be directly threatening to a child's safety or might attract people who are a threat to a child's safety.

12. The *situation* is such that a child has serious physical injuries or serious physical symptoms from abuse or neglect.

The key word is “serious,” and suggests that the child's condition has immediate implications for intervention (e.g., need for medical attention, extreme physical vulnerability). The presumption related to this safety threat is there is some connection, either alleged or confirmed, between the physical injuries or physical symptoms and child abuse or neglect. During the initial contacts with a child, physical injuries and physical symptoms may be obvious (as in a present danger), but insufficient information has been gathered to connect the child's condition to abuse or neglect. However, this item remains a safety threat until such time as the abuse or neglect as the cause of the child's condition is ruled out.

Application of the Safety Threshold Criteria

Serious physical effects of abuse or neglect are out-of-control when they are health or life threatening; when routine accessible medical care is questionable; and when their existence represents a symptom of unchecked aggressive, assaultive caregiving behavior. No control exists within the family to care for and nurture the child respective of the physical condition.

Severe is qualified by the nature of the child's condition and the impending results of no protection and questionable medical care and follow-up.

Imminence is qualified by whether the child's condition will not improve or worsen if left unattended.

Note: *Many of the examples are also consistent with present danger. The injuries identified in the examples would be apparent at first contact. These remain here in this listing to emphasize the importance of addressing serious injuries to children as a result of abuse or neglect, the need for immediate medical care, and the relationship of these kinds of concerns to other family conditions and behaviors that represent a continuing state of danger – impending danger. Some of the examples, such as failure to thrive, may not be apparent at the initial contact.*

This threat is illustrated in the following examples.

- Child has severe injuries.
- Child has multiple/different kinds of injuries (e.g. burns and bruises).
- Child has injuries to head or face.
- Injuries appear to be premeditated; injuries appear to have occurred as a result of an attack, assault or out-of-control reactions (e.g. serious bruising across a child's back as if beaten in an out-of-control disciplinary act).
- Injuries appear associated with the use of an instrument which exaggerates method of discipline (e.g., coat hanger, extension cord, kitchen utensil, etc.).

- Child has physical symptoms from abuse or neglect which require immediate medical treatment.
- Child has physical symptoms from abuse or neglect which require continual medical treatment.
- Child appears to be suffering from Failure to Thrive.
- Child is malnourished.

13. The *situation* is such that a child shows serious emotional symptoms and/or lacks behavioral control that result in provoking dangerous reactions in parents or caregivers.

Key words are “serious” and “lack of behavioral control.” “Serious” suggests that the child’s condition has immediate implications for intervention (e.g., extreme emotional vulnerability, suicidal thoughts or actions). “Lacks behavioral control” describes the provocative child who stimulates reactions in others.

Application of the Safety Threshold Criteria

The condition of the child is what is out-of-control. The child is a source of danger to him or herself. The damage has been done and the child cannot control it. Family members cannot control the child with respect to preventing what the child may do which could result in severe effects. Additionally, caregivers and even others can be so provoked by the child’s behavior that they are not able or wanting to control their reactions against the child.

The child’s emotional and behavioral conditions are so extreme that the child is seriously disturbed and self-destructive or behaves in ways that others will be a danger to him or her. The results could be suicide, self-mutilation, being physically abused, etc.

The child’s emotion and behavior are so profound that he or she is an immediate danger to him or herself without protection. The severe effects could be immediate. The child’s condition may or may not be a result of previous maltreatment.

This threat is illustrated in the following examples.

- Child threatens suicide, attempts suicide, or appears to be having suicidal thoughts.
- Child’s emotional state is such that immediate mental health/medical care is needed.
- Child is capable of and likely to self-mutilate.
- Child is so withdrawn that basic needs are not being met.

14. The *situation* is such that a child is fearful of the home situation or people within the home.

“The home situation” includes specific family members and/or other conditions in the living situation. Other people in the home refers to those who either live in the home or frequent the home so often that a child daily expects that the person may be there or show up. (e.g., frequent presence of known drug users in the household).

Application of the Safety Threshold Criteria

Do you know when fear is out-of-control? Have you ever felt that way? Can you imagine a child being so afraid that his fear is out-of-control? Can you imagine a family situation in which there is nothing or no one within the family that will allay the child's fear and assure a sense of security? To meet this criterion, the child's fear must be obvious, extreme, and related to some perceived danger that child feels or experiences.

By trusting the level of fear that is consistent with the safety threat, it is reasonable to believe that the child's terror is well-founded in something that is occurring in the home that is extreme with respect to terrorizing the child. It is reasonable to believe that the source of the child's fear could result in severe effects.

Whatever is causing the child's fear is active, currently occurring, and an immediate concern of the child. Imminence applies.

This threat is illustrated in the following examples.

- Child demonstrates emotional and/or physical responses indicating fear of the living situation or of people within the home (e.g., crying, inability to focus, nervousness, withdrawal).
- Child expresses fear and describes people and circumstances which are reasonably threatening.
- Child recounts previous experiences which form the basis for fear.
- Child's fearful response escalates at the mention of home, people, or circumstances associated with reported incidents.
- Child describes personal threats which seem reasonable and believable.

<p>15. Because of perception, attitude or emotion, parents or caregivers cannot, will not or do not explain a child's injuries or threatening family conditions.</p>

Parents/caregivers do not or are unable or unwilling to explain maltreating conditions or injuries which are consistent with the facts. An unexplained serious injury is a present danger and remains so until an explanation alters the seriousness of not knowing how the injury occurred or by whom.

Application of the Safety Threshold Criteria

You cannot control what you do not understand – what is not explained or explained adequately. A family situation in which a child is seriously injured without a reasonable explanation is a family situation that is out-of-control.

Typically this safety threat occurs in connection with a serious injury. So the severity question is already answered. Research (such as that associated with the Battered Child Syndrome) supports a concern that one serious unexplained or non accidental injury reasonably may be followed by another.

When the cause of an injury is not known, then, what might be operating could result in another injury in the near future.

Note: *An unexplained injury at initial contact should be considered a present danger. If the injury remains unexplained at the conclusion of an initial assessment/investigation, the lack of an acceptable explanation must be considered an impending danger.*

This threat is illustrated in the following examples.

- Parents/caregivers acknowledge the presence of injuries and/or conditions but plead ignorant as to how they occurred.
- Parents/caregivers express concern for the child's condition but are unable to explain it.
- Parents/caregivers appear to be totally competent and appropriate with the exception of 1) the physical or sexual abuse and 2) the lack of an explanation or 3) an explanation that makes no sense.
- Parents/caregivers accept the presence of injuries and conditions but do not explain them or seem concerned.
- Sexual abuse has occurred in which 1) the child discloses; 2) family circumstances, including opportunity, may or may not be consistent with sexual abuse; and 3) the parents/primary caregivers deny the abuse, blame the child, or offer no explanation or an explanation that is unbelievable.
- "Battered Child Syndrome" case circumstances are present and the parents/primary caregivers appear to be competent, but the child's symptoms do not match the parents'/primary caregivers' appearance, and there is no explanation for the child's symptoms.
- Parents'/caregivers' explanations are far-fetched.
- Facts observed by child welfare staff and/or supported by other professionals that relate to the incident, injury, and/or conditions contradict the parents'/primary caregivers' explanations.
- History and circumstantial information are incongruent with the parents'/primary caregivers' explanation of the injuries and conditions.
- Parents'/caregivers' verbal expressions do not match their emotional responses and there is not a believable explanation.

16. One or both parents or caregivers has a child out of his/her care due to child abuse or neglect, or has lost a child due to termination of parental rights. (*This safety threat has been added in the Oregon Child Welfare Safety Model)

This safety threat occurs in family situations in which the parent has previously abused and/or neglected a child(ren) and the behavior or conditions that resulted in that abuse or neglect were serious enough to require removal and the behavior or condition has not been remediated. The behavior or conditions have not allowed for reunification with the child or children that were removed.

Application of the safety threshold criteria:

This situation meets the safety threshold criteria in that the *severity* of the behavior, condition or circumstance is such that it requires current removal of the child(ren) or has required permanent removal of the parent's child(ren) through relinquishment prior to termination or termination of parental rights. The situation is *out of control* in that the behavior, condition, or circumstance resulting in the removal of children has not changed. Exposure of a child to this *severe* and *out of control* behavior condition or circumstance that has not changed requires *immediate* intervention

Sample Conditions for Return for each Safety Threat

This document provides examples of possible Conditions for Return for each of the 16 Safety Threats. For each Safety Threat, a very brief description of how the Safety Threat is occurring in the family is provided.

This handout provides examples and therefore is not intended to address all the information that should be understood and documented about Safety Threats. For this reason, the sample Conditions for Return statements may be less comprehensive than an actual child welfare case when the identified Safety Threats and how they are occurring in the family are better understood.

The examples of Conditions for Return under each Safety Threat are divided into the three areas necessary for an in-home safety plan to be possible. In developing Conditions for Return, the three areas must be considered and addressed, WHEN they are among the reasons an in-home safety plan is not currently possible:

1. Parent(s) willingness and ability to participate in an ongoing safety plan and to continue to work with DHS toward achieving the expected outcomes;
2. The living environment being safe, stable and sustainable enough to allow management of a sustainable in-home safety plan; and,
3. The frequency and type of safety service provider intervention necessary to ensure child safety.

<p>SAFETY THREAT #1: The family situation results in no adult in the home routinely performing parenting duties and responsibilities that assure a child's safety.</p>		
<p>How is the safety threat specifically occurring in the family?</p> <p>Mary does not provide routine care and supervision for her 6-year-old daughter, Ellen. Even when Mary is at home, she does not ensure Ellen is fed, does not bathe her or assist with her other daily needs. Mary is often unaware of Ellen's whereabouts and often leaves her home alone for hours at a time.</p>		
<p>Conditions for Return</p>		
<p>Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes</p> <p>Mary will understand her actions have not been safe for her daughter.</p> <p>Mary will demonstrate she is motivated to develop the knowledge and skills necessary to keep her daughter safe and healthy.</p> <p>Mary will be willing and able to allow DHS staff and others in her home as often as needed to ensure Ellen is well-cared for and safe.</p>	<p>Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan.</p> <p>No C4R is needed for this element. The physical living environment is safe and stable enough to allow an in-home safety plan to be effectively implemented and managed in a sustainable way.</p>	<p>Safety service providers</p> <p>A responsible adult will be in the home each day to ensure Mary's basic needs are met and she is appropriately supervised.</p> <p>One or more responsible adults will be readily available (24/7) to respond to a call from Mary to baby sit whenever Mary wants/needs to leave the house for any reason.</p> <p>DHS staff and others will be available to make random, unannounced visits to monitor Ellen's safety.</p>

<p>SAFETY THREAT #2: 2. One or both parents' or legal guardians' behavior is violent and/or they are acting (behaving) dangerously. How is the safety threat specifically occurring in the family?</p> <p>Cindy frequently lashes out at her 8 year-old son, Steve, hitting him uncontrollably with her fists and with objects. Cindy has made threats to kill Steve and/or herself on more than one occasion.</p>		
Conditions for Return		
Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes Cindy will be willing to have safety service providers in her home as often as necessary to keep Steve safe. Cindy will recognize her violent behavior is harmful to Steve. Cindy's actions and conversations will demonstrate she wants to learn to behave and parent safely. Cindy's behaviors will be safe enough and predictable enough to allow the safety service providers to be safely in the home to protect Steve.	Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan. No C4R is needed for this element. The physical living environment is safe and stable enough to allow an in-home safety plan to be effectively implemented and managed in a sustainable way.	Safety service providers A person approved by DHS will be present whenever Steve is with Cindy to protect Steve from Cindy behaving violently. A plan will be in place for Steve to be away from the home and Cindy at all times when a protective person is not in the home.

SAFETY THREAT #3:		
3. One or both parents' or legal guardians' behavior is impulsive or they will not/cannot control their behavior.		
How is the safety threat specifically occurring in the family?		
Greta is so depressed that she is unable to provide basic care for her three children (7, 4, and 2); she is lethargic; sleeps most of the time; refuses to take medication; cries and sobs; cannot keep the home safe or hygienic.		
Conditions for Return		
Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes	Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan.	Safety service providers
Greta will agree to have people in her home as often as necessary to help keep her children safe. Greta will recognize the impact of her depression on the safety of her children. Greta will be taking steps toward addressing her depression and increasing her ability to safely parent her children.	The home will be physically safe and hygienic. A plan will be in place to assist Greta in keeping the home clean and safe.	A responsible person, approved by DHS, will be in the home each day to ensure the children's needs are met and the home is safe and clean.

<p>SAFETY THREAT #4: 4. Parents' or legal guardians' perceptions of a child are extremely negative. How is the safety threat specifically occurring in the family? Don openly says he hates his 12 year-old effeminate son, Sean. He describes feeling repulsed by the boy and as a result verbally and physically attacks him, saying he is trying to "toughen him up."</p>		
Conditions for Return		
Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes Don's behaviors will be safe enough and predictable enough for safety service providers to be safely in the home to ensure Sean's safety. Don is willing to have people observe and supervise all of his interactions with Sean. Don will demonstrate he understands the harm to his son caused by his beliefs and behaviors. Don's actions will show he wants to take the steps necessary to have a safe and healthy relationship with Sean.	Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan. No C4R is needed for this element. The physical living environment is safe and stable enough to allow an in-home safety plan to be effectively implemented and managed in a sustainable way.	Safety service providers A responsible person approved by DHS is available to supervise all contact between Don and Sean to ensure Sean is not mistreated.

<p>SAFETY THREAT #5: 5. A family situation or behavior is such that the family does not have or use resources necessary to assure a child's safety.</p>		
<p>How is the safety threat specifically occurring in the family?</p> <p>Junior and Rita's home is near being condemned because of the deteriorating physical structure, faulty wiring and unhealthy conditions. There is no heat and the plumbing is inadequate. Junior and Rita both have mild cognitive delays and they make poor choices about their money and the care of their home. They have sufficient income to provide a safe home for the children, but consistently use the money for things not related to child safety.</p>		
<p>Conditions for Return</p>		
<p>Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes</p> <p>Junior and Rita will understand the safety threats posed to the children when the home is unclean and in disrepair.</p> <p>Junior and Rita will allow DHS and others to be in the home as often as necessary to assist them in keeping the children safe.</p> <p>Junior and Rita Junior and Rita will show they are motivated to learn how keep the home safe for the children.</p>	<p>Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan.</p> <p>The family home will be safe and clean with adequate plumbing, heat, and wiring.</p> <p>A plan will be in place to support Junior and Rita in making sure the home is safely livable day to day.</p>	<p>Safety service providers</p> <p>A person approved by DHS will be in the home twice weekly to ensure the ongoing safety of the home.</p>

<p>SAFETY THREAT #6: 6. One or both parents or legal guardians' attitudes, emotions and behavior are such that they are threatening to severely harm a child or are fearful they will abuse or neglect the child and/or request placement. How is the safety threat specifically occurring in the family? Marsha's ability to cope with her newborn infant's colic and fitful temperament has deteriorated. Lack of sleep, feelings of inadequacy, and the stress of being a single parent are combining in ways that frighten Marsha. Marsha reports having thoughts of hurting the baby. Marsha said if the baby remained in her care, she was sure she was going to hurt her and that someone else should raise the baby. Marsha asked the CPS worker to take her daughter into protective custody.</p>		
Conditions for Return		
<p>Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes</p> <p>Marsha will be able to describe what factors led up to her fearing she would hurt her baby, and how and why her fears about hurting the baby have begun to diminish.</p> <p>Marsha will be clear in her statements and actions she wants to learn to safely parent her daughter.</p> <p>Marsha will be willing to have various persons in her home to supervise all of her contact with her baby.</p>	<p>Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan.</p> <p>No C4R is needed for this element. The physical living environment is safe and stable enough to allow an in-home safety plan to be effectively implemented and managed in a sustainable way.</p>	<p>Safety service providers</p> <p>A responsible family member or combination of volunteers and professionals approved by DHS will be in the family home every day and at all times to provide adequate supervision and care of the baby, as well as to supervise all contact Marsha has with the baby.</p>

<p>SAFETY THREAT #7: 7. One or both parents' or legal guardians' attitudes or emotions are such that they intended to seriously hurt the child. How is the safety threat specifically occurring in the family?</p>		
<p>Beatrice burned her 13 month-old daughter with a cigarette to teach her a lesson. Beatrice believes what she did was an acceptable method to teach children lessons and openly states her intention to use physical pain and injury for punishment in the future.</p>		
<p>Conditions for Return</p>		
<p>Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes</p>	<p>Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan.</p>	<p>Safety service providers</p>
<p>Beatrice will demonstrate she understands what she did was wrong and openly and believably show regret and remorse for the way she treated Phoebe.</p> <p>Beatrice will be able to describe what the consequences can be using pain and injury to punish a child and will be actively engaged in learning and demonstrating new ways to discipline Phoebe.</p> <p>Beatrice will be willing to have persons supervise all of her contact with her daughter.</p>	<p>No C4R is needed for this element. The physical living environment is safe and stable enough to allow an in-home safety plan to be effectively implemented and managed in a sustainable way.</p>	<p>One or more responsible adults approved by DHS must be available 24 hours a day to be present when Beatrice and Phoebe are together and must actively observe all interaction between Beatrice and Phoebe.</p>

<p>SAFETY THREAT #8: 8. A situation, attitudes and/or behavior is such that one or both parents or legal guardians lack parenting knowledge, skills, and motivation necessary to assure a child's safety.</p>		
<p>How is the safety threat specifically occurring in the family?</p> <p>Bryan and Sheila are the 18 year-old parents of a newborn. Both adults are mildly cognitively limited and socially immature. They have no knowledge or skill needed in providing basic care to the infant. In addition to the basic care problems, they mishandle the child and behave toward her like she is a doll, handling her roughly and leaving her strapped in her car seat the majority of the time, failing to recognize or respond to her cues.</p>		
Conditions for Return		
<p>Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes</p> <p>Bryan and Sheila will show they understand what the consequences for Heather could be if they don't learn how to keep her healthy and safe, and will be taking actions to begin to learn how to safely care for Heather.</p> <p>Bryan and Sheila will be agreeable to having someone in their home daily to assist them in safely caring for their baby.</p> <p>Bryan and Sheila will demonstrate the ability to consistently handle Heather gently and carefully and will clearly understand the importance of doing so.</p>	<p>Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan.</p> <p>No C4R is needed for this element. The physical living environment is safe and stable enough to allow an in-home safety plan to be effectively implemented and managed in a sustainable way.</p>	<p>Safety service providers</p> <p>A family member, volunteer or professional with suitable knowledge and skill to meet the safety and basic care needs of Heather will be present at all times to assist Bryan and Sheila in appropriately caring for Heather.</p>

<p>SAFETY THREAT #9: 9. Parents' or legal guardians' attitudes and behavior result in overtly rejecting CPS intervention, refusing access to a child, and/or there is some indication that the parents or legal guardians will flee. How is the safety threat specifically occurring in the family? Fred is the father of two boys: 4 and 7. Both children have chronic medical problems. Despite clear instructions by medical providers on numerous occasions, Fred has failed to provide his sons with the necessary medical care. Fred has a long history of running away from CPS interventions and has said repeatedly he doesn't think the boys' conditions are as bad as everyone is saying, and he knows what's best for his sons and will not let CPS run his life. Fred has no connections in the community and admitted he was making arrangements to leave town when the children were taken into care. (Note: A safety threat directly related to the medical neglect would also be identified under these circumstances.)</p>		
<p>Conditions for Return</p>		
<p>Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes</p> <p>Fred will show he clearly understands his sons' exceptional medical needs and is committed to routinely providing the stability they need to be safe and healthy.</p> <p>Fred will be actively engaged with DHS and working diligently to increase his ability to keep his sons safe and healthy.</p> <p>Fred agrees to be in touch with CPS by phone or in person as often as requested by DHS, and is willing to have unannounced visits to his place of employment and his home as often as DHS deems necessary.</p>	<p>Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan.</p> <p>Fred will show evidence of an established residence based on some standing commitment (such as a lease or mortgage), and will have income adequate to sustain the safe, stable housing indefinitely.</p>	<p>Safety service providers</p> <p>Persons (such as Fred's landlord and/or employer) will be willing and able to notify DHS immediately if it even appears possible Fred is intending to leave the area.</p> <p>Dr. Jones will report to DHS the same day if a medical appointment is cancelled or Fred does not schedule all necessary appointments or fails bring the boys to a scheduled appointment.</p>

SAFETY THREAT #10:
 10. Parents' or legal guardians' attitude, behavior, perception result in the refusal and/or failure to meet a child's exception needs that affect his/her safety.

How is the safety threat specifically occurring in the family?

Lydia has chronic, life-threatening breathing problems requiring constant and elaborate care including the use and maintenance of medical equipment. Her mother, Sandy, is easily distracted; in denial about the seriousness of Lydia's medical problem; and preoccupied with having fun, which results in Lydia not receiving the routine medical care she needs and requiring frequent hospitalizations.

Conditions for Return

<p>Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes</p>	<p>Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan.</p>	<p>Safety service providers</p>
<p>Sandy will accept and understand Lydia's medical needs. She will be able to describe the dangers of Lydia not being properly treated and will be supportive of Lydia receiving the necessary medical care.</p>	<p>All necessary medical equipment will be available in the home. A plan to maintain the equipment in good working order will be in place.</p>	<p>A person or persons will be available and have sufficient expertise to make sure Lydia receives her necessary daily care for as long as needed.</p>
<p>Sandy will be willing and able to have all necessary persons in her home to assist with Lydia's care.</p>		

<p>SAFETY THREAT #11: 11. Family situation is such that living arrangements seriously endanger the child's physical health.</p> <p>How is the safety threat specifically occurring in the family?</p> <p>Bill and Wanda Radcliff have an 18 month-old and a 3 year-old. The home is overrun with pets, littered with pet feces on the floor; the smell of animal urine is overwhelming; contains rotting and spoiled food; includes used diapers discarded on the floor; trash is overflowing; plumbing is faulty and backing up; the home is infested with roaches, fleas and rats. Both children are covered with infected insect bites and have breathing problems which medical providers have attributed to the filth in the home.</p>		
Conditions for Return		
<p>Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes</p> <p>Bill and Wanda will be able to describe the safety threats to the children resulting from the dangerous condition of the home. They will demonstrate they are motivated to make and maintain necessary changes and are open to visits and oversight as necessary.</p>	<p>Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan.</p> <p>The home must be clean and safe and a plan must be in place to ensure it is appropriately maintained.</p> <p>Bill and Wanda will reduce the number of pets to 1 or 2, and will demonstrate the ability to care for the pets in ways to avoid filth to the home.</p>	<p>Safety service providers</p> <p>A person approved by DHS will be willing and able to visit the home a minimum of 3 times each week to ensure the ongoing safety of the physical environment.</p>

<p>SAFETY THREAT #12: 12. The family situation is such that a child has serious physical injuries or serious physical symptoms from abuse or neglect.</p> <p>How is the safety threat specifically occurring in the family?</p> <p>Jane has become increasingly frustrated with 8-year-old James wetting his pants and his bed. She punished James for wetting his pants at school by holding him down in a tub of scalding hot water. James has second and third degree burns on his legs and buttocks from the immersion.</p>		
Conditions for Return		
<p>Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes</p> <p>Jane will be able to discuss the factors that contributed to her abusing James.</p> <p>Jane will demonstrate remorse for the child's mistreatment and will be actively involved in services and activities to address the concerns.</p> <p>Jane will be willing and able to allow people to supervise her contact with James and to assist with his medical care as needed.</p>	<p>Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan.</p> <p>James will feel safe about returning home with the ongoing safety plan in place.</p> <p>Jane's emotional state will be calm and predictable enough to allow safety service providers to be safe while providing care and safety for James.</p>	<p>Safety service providers</p> <p>A person or persons approved by DHS will supervise all contact between James and his mother.</p> <p>A person or persons with sufficient medical knowledge will be available to be in the home daily to ensure James' burns are appropriately cared for.</p>

<p>SAFETY THREAT #13: 13. The situation is such that a child shows serious emotional symptoms and/or lacks behavioral control that result in provoking dangerous reactions in parents or legal guardians.</p>		
<p>How is the safety threat specifically occurring in the family?</p> <p>Johnny is 12 years old and just attempted suicide for the third time. Johnny's father, Thomas, is a single parent and reports he is exhausted, has done everything he can think of to help Johnny, and is "done."</p>		
<p>Conditions for Return</p>		
<p>Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes</p> <p>Thomas will demonstrate a willingness and ability to learn to intervene appropriately, monitor (behavior, meds, services, interventions) Johnny's needs, and obtain ongoing supports from service providers (school, mental health, others.)</p> <p>Thomas will report being willing and able to meet Johnny's needs with support from others.</p>	<p>Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan.</p> <p>Johnny's emotional symptoms and behavioral control will be remediated to the point that he is unlikely to provoke dangerous reactions in others and/or commit self-destructive behaviors.</p>	<p>Safety service providers</p> <p>There will be a plan in place to obtain professional intervention for Johnny on an emergency basis whenever needed.</p>

<p>SAFETY THREAT #14: 14. The situation is such that a child is fearful of the home situation or people within the home.</p> <p>How is the safety threat specifically occurring in the family?</p> <p>A.J. is observably shaken and afraid of his home situation. Drug transactions, prostitution and criminal activity are occurring in the home on a daily basis. A.J. is clearly afraid of the people who frequent the home and of his father, Greg, who is a gang member. A.J. is terrorized and made fun of by his father and his father's friends.</p>		
Conditions for Return		
<p>Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes</p> <p>Greg will be willing to have a responsible adult in the home as often as necessary to supervise Greg's interactions with A.J. and to ensure A.J.'s safety.</p> <p>Greg will demonstrate a connection with and empathy toward A.J. and will be able to describe how his behavior and the behavior of his friends have made his son fearful and unsafe.</p> <p>Through his actions and statements, Greg will demonstrate he is committed to making the changes necessary to allow A.J. to be safe, and feel safe.</p> <p>Greg will willingly limit the persons in the family home and/or in contact with A.J. to those persons deemed appropriate by DHS.</p>	<p>Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan.</p> <p>A.J. will feel comfortable with the ongoing safety plan and will express no fear of returning to his home and/or being with his father.</p> <p>Only persons approved by DHS will be in the family home and/or in contact with A.J.</p> <p>A plan will be in place for A.J. to safely leave the family home if he feels unsafe.</p> <p>Greg's own associations and behaviors will not create an environment within the home which threatens child safety (drugs, gangs, drive-by shooting, etc.)</p>	<p>Safety service providers</p> <p>A person or persons known and trusted by A.J. will have face to face contact with A.J. on a daily basis to ensure A.J.'s physical and emotional safety is being maintained.</p> <p>Greg's parole officer and DHS case worker will make random, unannounced visits to the home to check on A.J.'s physical and emotional safety and to help assure there are no unauthorized persons or activities happening in the home.</p>

<p>SAFETY THREAT #15: 15. Because of perception, attitude or emotion, parents or legal guardians cannot, will not or do not explain a child's injuries or threatening family condition.</p> <p>How is the safety threat specifically occurring in the family?</p> <p>Sarah is 9 months old. She has an unexplained serious injury to her head. The medical personnel who examined Sarah have diagnosed the injury as non accidental. Sarah's mom, Missy, and dad, Donald, were both at home with Sarah at the time of the injury and have offered three different explanations for the injury, none of which fit.</p>		
Conditions for Return		
<p>Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes</p> <p>Missy and/or Donald* will work diligently with CPS to sort out how Sarah was actually injured.</p> <p>Missy and/or Donald* will be able to describe the circumstances and conditions which contributed to the abuse of Sarah.</p> <p>Missy and/or Donald* will demonstrate believable remorse in relation to Sarah's injuries.</p> <p>Missy and/or Donald* will clearly and obviously feel a connection to Sarah and a responsibility for ensuring Sarah's safety.</p> <p>Missy and/or Donald* will be actively engaged with DHS and diligently working to increase their ability to safely parent.</p>	<p>Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan.</p> <p>Missy and/or Donald's behaviors and emotional state must be calm enough and predictable enough to allow management of an in home safety plan with in-home safety service providers 24/7.</p>	<p>Safety service providers</p> <p>One or more suitable, trustworthy adults will be present at all times and will have primary responsibility for Sarah's care and safety. They will closely supervise all contact between Sarah and her parent(s).</p> <p>*If only one parent meets the conditions for return, Sarah will be returned to that parent with the ongoing safety plan restricting contact by the other parent.</p>

<p>SAFETY THREAT #16: One or both parents or legal guardians has a child out of his/her care due to child abuse or neglect, or has lost a child due to termination of parental rights.</p>		
<p>How is the safety threat specifically occurring in the family?</p> <p>Lisa has a significant history with our agency. She has had her parental rights terminated on three children, two years ago. This termination was based on Lisa's drug and alcohol addiction and her inability to care for her children while she was high or withdrawing from methamphetamine. Lisa has given birth to another infant who has tested positive for methamphetamine at birth.</p>		
Conditions for Return		
<p>Parental willingness/ability to cooperate with the safety plan and work toward the Expected Outcomes</p> <p>Lisa will be observed to be actively in recovery and taking appropriate steps to support her continued sobriety.</p> <p>Lisa will describe the dangers to her child created by her addictive choices and behaviors and show she is committed to ensuring the safety of her child.</p>	<p>Living environment is safe, stable and sustainable enough to allow management of an in-home ongoing safety plan.</p> <p>Lisa's behaviors will be calm and stable enough to allow others in the family home to care for her child.</p>	<p>Safety service providers</p> <p>A responsible family member or combination of volunteers and professionals are in the family home every day to provide adequate supervision and care of the baby, as well as supervise all contact Lisa has with the baby.</p>

CONDITIONS FOR RETURN

What are Conditions for Return?

Child placement should always be thought of as a temporary safety response required until such time as circumstances within the home can be established to produce less intrusive means for protection. A statement of the conditions for return respects the rights of the caregivers; provides a benchmark for reunification; and informs all parties about what is expected for children to return home.

Conditions for Return are statements of what must exist for a child in substitute care to return home with an in-home Safety Plan. Conditions for Return focus on the specific behaviors, conditions, circumstances, and resources that must be in place for an in-home Safety Plan to monitor child safety. Reunification decisions are safety management decisions and should not be based upon the parent's completion of specific services or reaching Expected Outcomes.

In other words, parents need not be capable of keeping their child safe on their own for the child to safely return home with a sufficient, sustainable in-home Safety Plan. Following reunification, child safety is effectively monitored by an in-home Safety Plan, while parent continues to work toward the Expected Outcomes and ultimately regaining responsibility for the child's safety.

Developing Conditions for Return:

Conditions for Return will be related to one or more of the three following areas:

1. Parental willingness and ability –

- (a) To support the in-home ongoing Safety Plan; and,
- (b) To continue to work with DHS toward reaching the expected outcomes and regaining responsibility for their child's safety.

Parents must demonstrate both a willingness and ability to support DHS managing an in-home Safety Plan as well as a basic motivation to achieve Expected Outcomes. Parents might be willing, but not able, or visa versa. More is required than a parent simply saying what they think DHS wants to hear (i.e., "I'll do anything you say.") Some examples of possible Conditions for Return related to parental willingness and ability are:

- Parent demonstrates a basic understanding of how they contributed to their child’s lack of safety.
- Parent demonstrates a basic desire to work with DHS to increase their ability to keep their child safe.
- Parent’s behaviors are safe, calm and predictable enough to allow DHS to ensure child safety using an In-Home Safety Plan.
- Parent does not blame the child for DHS involvement in the family.
- Parent is willing to have as much DHS and safety service provider involvement as necessary to monitor child safety.

2. Living environment – must be safe, stable and calm enough for DHS to be able to effectively manage an in-home Safety Plan. An in-home Safety Plan is used to monitor child safety, so the parent does not need to manage all aspects of the living environment on their own at the time of reunification. Some examples of possible Conditions for Return related to the living environment are:

- The parent has sufficient financial resources to obtain and sustain safe, adequate housing.
- The living environment is free of dangerous persons and activities (i.e., criminal activity, gang members, etc.)
- The living environment is physically safe for the child.
- The parent is willing and able to notify DHS, law enforcement, etc. as necessary if safety threats to the child occur (i.e., the offending parent violates a restraining order, a dangerous circumstance or condition arises in the home, etc.)

3. Resources (Safety Service Providers) - must be available, willing and able to provide the necessary supervision and support to ensure the child’s safety.

DHS should consistently seek to identify and involve appropriate community resources as participants in an in-home Safety Plan to allow children to return safely to their homes as quickly as possible. Resources to consider include family members, friends, church members, neighbors, school staff and other professionals and community members. Some examples of possible Conditions for Return related to Resources are:

- A DHS approved person (or persons) will supervise all child/parent contact to ensure child safety.
- A DHS approved person (or persons) will make unannounced visits to the home at least every other day to ensure the living environment is safe.
- DHS staff will make frequent, random, unannounced visits to the home and will have access to the entire home.
- No persons other than those approved by DHS will be present in the home at any time.
- School staff will immediately notify DHS if the child does not arrive at the start of the school day.

When are Conditions for Return developed?

When a child is removed as part of a short-term Protective Action during the CPS assessment, it is not necessary to identify Conditions for Return. At the conclusion of the CPS assessment, if the safety analysis concludes the child is unsafe and an ongoing case will be opened, a Child Safety Meeting is held.

If the Child Safety Meeting results in an out-of-home Safety Plan, Conditions for Return are discussed and documented on the Safety Plan form (1149) developed at the Child Safety Meeting. The Conditions for Return are also documented in the Case Plan (333) and should be part of the court order.

When determining Conditions for Return, consider the following questions:

- Why was an out-of-home Safety Plan originally necessary? (i.e., parental issues, living environment issues, and/or resource issues?)
- Do the Conditions for Return address all of the issues that made an out-of-home Safety Plan necessary?
- If the Conditions for Return are met, will a *sustainable* in-home Safety Plan be possible?
- Do the Conditions for Return include conditions related to the parent demonstrating the willingness and ability to support an in-home Safety Plan?
- Will meeting the Conditions for Return confirm the parent is willing and able to continue working toward the Expected Outcomes?
- What level of supervision is necessary to effectively monitor child safety?
- What times, days, etc. must resources (Safety Service Providers) be available to ensure child safety?

9/18/2008

2008 Road Show

Section Four

Interstate Compact on Placement of Children

Timothy Travis
Staff Counsel for Juvenile and Treatment Courts
Oregon Judicial Department

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“Every change we make in ourselves, every exploratory path we follow, changes many others. Our explorations even change the rules by which we change. We are not contestants pitted against one another in a game with all the rules set ahead of time.”

a simple way

Margaret J. Wheatley and Myron Kellner-Rogers

Interstate Compact for the Placement of Children:

Strategies	Responsibility	Targeted Completion Date	Benchmarks
3.1 State court to assess their role, responsibilities and effectiveness in interstate placement of children	JCIP, DHS	Completed	Development of state court's plan to assess its role, responsibilities and effectiveness in the interstate placement of children
		Completed	Complete the Assessment. Have a Plan to Improve
3.2 State court to implement any recommendations from their assessment of interstate placement of children	JCIP, DHS, Circuit Courts	Aug-08	Educate and Train Judges on the Oregon ICPC assessment results. Encourage Model Court Teams to address efforts
		Jan-09	Develop a plan for implementation of recommendations from the findings of the state court's assessment
		Jun-09	Implement the Plan
		Jan-11	Assess the Implementation Plan. The report may be integrated into the overall evaluation of the program (See Goal #5)

Plan for Improvement of Court Performance on Interstate Placement of Children

- 1) Educate the bench and Citizen Review Board on their role in cases subject to the Compact, including Regulation 7 which allows for expediting cases under certain circumstances at both the beginning of the request process and later.
- 2) Develop training materials and resources to enable the court and CRB to improve performance in fulfilling their roles. 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 the agency in monitoring of data regarding approval of placements of children in Oregon from out of state
- 4) Collaborate with the agency as part of the Program Improvement Plans resulting from the Child and Family Service Review to develop protocols for identifying, exploring, developing and reviewing out of state placements while the permanent plan remains return to parent.
- 5) Develop docketing practices such that reviews are held at milestones anticipated in a specific 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. Work with Washington State Court Improvement Project and judges in this effort.
- 7) Educate all parties to dependency cases on the Compact and how they can participate in the process so as to eliminate such delays as possible.

Overview

The Interstate Compact on the Placement of Children

Timothy Travis

Staff Counsel
Oregon Judicial Department

- ### What is the Compact
- An agreement among states
 - Not a state law
 - Not a federal law
 - Has the effect of law
 - Agreeing states must follow while placing children in other states and having children placed in theirs

Compact Exists to:

- Ensure that children placed out of state receive the protection and services they would receive place in their home states
- Ensure that the jurisdictional, administrative and human rights of the institutions and individuals involved are protected.

When the Compact Applies

- Placement of a child for adoption
- Foster care placements (including family foster, care, group homes, residential treatment and institutions).
- Placement with parents and relatives when an individual or institution other than a parent or relative is making the placement.

Not Applicable To...

- Placements in medical and mental health facilities or boarding schools or any institution primarily educational in nature. Article II(d).
- Placement made by a parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or child's guardian (but only by one person in this group to another person named in this group). Article VII(a).

Sending Agencies Include

- A state that is party to the Compact or governmental subdivision thereof
- A court of a state that is a party to the Compact
- Any person (including parents and relatives in certain circumstances), corporation, association or charitable agency of a party state.

Compact protects by...

1. Giving Sending state the opportunity to get a home study and evaluation of proposed placement

Compact protects by...

2. Giving the receiving state the opportunity ensure that placement is not contrary to best interest of the child and that its own laws have been complied with before approval of the placement

Compact protects by...

3. Guaranteeing the legal and financial protection of the child by fixing the responsibility for such with the sending state or individual.

Compact protects by...

4. Ensuring that the sending state does not lose jurisdiction of the child

Compact protects by...

5. Providing the sending state the ability to obtain supervision and reports on the child's situation and progress.

DHS administers the Compact in Oregon

- Administrator is the processor of all referrals for interstate placement; responsible to investigate proposed placements and determine whether it is in the best interest of the child.
- Administrator also oversees placement as long as it continues.

Process

1. In the concurrent planning process agency identifies out of state placement resources

Process

2. Agency assembles application for home study

Process

3. Agency forwards application package to the Compact Administrator at DHS in Salem

Process

4. Oregon Administrator forwards Application to receiving state Administrator

Process

5. Receiving state Administrator forwards to local public or private child welfare agency

Process

6. Local agency prepares a report including recommendation on whether to make the placement and sends this to the Compact Administrator in the receiving state.

Process

7. If the local agency report approves and the receiving state Compact Administrator determines that all state law requirements have been met placement is approved.
If local report does not approve, or the receiving state Compact Administrator determines non-compliance with state law, it will be rejected.

Process

8. Receiving state Compact Administrator sends findings to sending state Compact Administrator, who forward it to the sending agency.

Implementation of placement

States work together to finalize details and agreements regarding finances, monitoring, services and reports to be provided.

Sending agency responsible

Legal and financial responsibility for the child remains the same as though child still resides in sending state.

Termination of sender's obligation to receiving state

- return of child to sending state
- transfer of jurisdiction to court or agency in the receiving state
- child reaches age of majority
- child is legally adopted

Anticipated” time required

Six weeks—30 working days—is the anticipated time from the arrival of application package with the receiving state Administrator to the approval or denial.

Factors effecting time

Workload and considerations aside from completion of home study (background checks, completion of foster care training programs and approval), may delay the final decision.

Federal nudge

Safe and Timely Interstate Placement of Foster Children Act of 2006

(not part of Interstate Compact)

**Safe and Timely Interstate
Placement of Foster Children
Act of 2006**

Receiving State must conduct,
complete and report the result
of home study within 60 days
of request received by its
Compact Administrator

**Safe and Timely Interstate
Placement of Foster Children
Act of 2006**

Sixty days excludes education
and training of prospective
foster and adoptive parents.

**Safe and Timely Interstate
Placement of Foster Children
Act of 2006**

15 day extension possible if
circumstances beyond control
documented (applicable to
studies started on or before
September 30, 2008)

**Safe and Timely Interstate
Placement of Foster Children
Act of 2006**

Incentives -- \$1500 per study
if completed within 30 days of
request

**Safe and Timely Interstate
Placement of Foster Children
Act of 2006**

Receiving state caseworkers
must visit children in interstate
placement every six months

**Safe and Timely Interstate
Placement of Foster Children Act of
2006**

Court must find that interstate
placement was considered as part
of reasonable efforts when
reviewing permanency planning
decisions, at permanency hearings
and when reviewing concurrent
planning

Safe and Timely Interstate Placement of Foster Children Act of 2006

- Health and education records
 - State must provide to children aging out of the system
 - State must supply to foster placement or other caregiver at time of placement

Regulation Seven

Expediting Interstate Placement

Regulation Seven

- Two bases
 - Status of child
 - Status of application

Regulation Seven—Status of Child

1. Child to be placed with Compact Article VIII(a) resource, *and*
 - a. child is under 2 years of age, *or*
 - b. child is in emergency shelter (must be moved within 30 days), *or*
 - c. child has previously spent substantial time in the home of the proposed placement.

Regulation Seven

Article VIII(a) placement is one with whom child could be placed without Compact but for the court involvement

Regulation Seven-- Status of Placement

2. The Compact Administrator in the receiving state has had the properly completed standard (non-priority) ICPC request package for over 30 *business days* and the Sending Agency has not received a response determining whether the child may or may not be placed.

Regulation Seven

30 business days = 6 weeks (if no national or state holidays)

Formula: $30 / 5 = 6$

Regulation Seven

- MAY NOT be used if:
 1. request is for placement of child in licensed or approved foster family home, or
 2. request is for adoptive placement, or
 3. child is already in receiving state in violation of Compact

Regulation Seven

Not if request is for placement of child in licensed or approved foster family home?

Apparently this isn't being taken as a bar to use of Regulation Seven...

Regulation Seven Timeline

Business Day 1

Court enters order making requisite findings

- Identify appropriate relative (or not)
- Qualifying condition (use only the one that applies, not a conjunctive that includes all four).

Regulation Seven Timeline

Business Day 3

Order must be delivered to sending agency (DHS)

Regulation Seven Timeline

Business Day 6

“Local” DHS must have complete placement packet to sending Compact Administrator in Salem

Regulation Seven Timeline

Business Day 8

DHS Compact Administrator has sent complete application packet to receiving state by overnight mail

Regulation Seven Timeline

Business Day 28

Receiving state makes final decision and sends fax of completed 100A to sending state Compact Administrator

A new Interstate Compact?

New ICPC

- Goes into effect when 35 states adopt it
- One year period to organize
- Then new rules take effect—only states recognized can place children in other states or have children from other states placed in them.

New ICPC seeks to...

- Ensure that differing state laws do not complicate private adoptions
- Provide standard procedures and timelines for processing applications
- Improve ability to enforce Compact provisions

New ICPC -- issues

- Private adoption sector resistance
- Impingement on state sovereignty
- cost

New ICPC

Will be back in Oregon Legislature
in 2009

(Introduced and withdrawn in 2007)

New ICPC -- More Information

http://www.aphsa.org/Home/home_news.asp

Overview

Interstate Compact on the Placement of Children

What is the Interstate Compact on the Placement of Children?

ICPC is a compact among the several states. It is not a federal law. Its rules are made by representatives from the states. The Compact governs the legal process by which children from one state can be placed in another for the purpose of adoption or foster care.

The Compact has the force of state law among those that enact it and requires the states to follow uniform procedures in implementing it.

Why is there a Compact?

It is intended to provide the protection and services children would receive if placed in their home states

The Compact tries to ensure that the jurisdictional, administrative and human rights of the institutions and individuals involved are protected.

When does the Compact apply?

Placement of a child for adoption

Foster care placements (including family foster, care, group homes, residential treatment and institutions).

Placement with parents and relatives when an individual or institution other than a parent or relative is making the placement.

When does it not apply?

Placements in medical and mental health facilities or boarding schools or any institution primarily educational in nature. Article II(d).

1 Overview of Interstate Compact Process

Placement made by a parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or child's guardian (but only by one person in this group to another person named in this group). Article VII(a).

“Sending agencies” include:

A state that is party to the Compact or governmental subdivision thereof

A court of a state that is a party to the Compact

Any person (including parents and relatives in certain circumstances), corporation, association or charitable agency of a party state.

How does the Compact safeguard child and parties?

Sending agency has to opportunity to get a home study and evaluation of proposed placement

Receiving state has opportunity ensure that placement is not contrary to best interest of the child and that its own laws have been complied with before approval of the placement

Guarantees the legal and financial protection of the child by fixing these with the sending state or individual.

Ensures the sending state does not lose jurisdiction of the child

Provides sending state the ability to obtain supervision and reports on the child's situation and progress.

How is the Compact administered among the states?

Each state has a Compact Administrator and Deputies

Located in equivalent of Oregon's Department of Human Services

2 Overview of Interstate Compact Process

Administrator is the processor of all referrals for interstate placement; responsible to investigate proposed placements and determine whether it is in the best interest of the child.

Administrator also oversees placement as long as it continues.

Processing Referrals

Sending agency forwards application package to Administrator in sending state

Sending state Administrator forwards to receiving state Administrator

Receiving state Administrator forwards to local public or private child welfare agency or residential facility

Local agency prepares a report including recommendation on whether to make the placement and sends this to the Compact Administrator in the receiving state.

If the local agency report approves and the receiving state Compact Administrator determines that all state law requirements have been met placement is approved. If local report does not approve, or the receiving state Compact Administrator determines non-compliance with state law, it will be rejected.

In either case, receiving state Compact Administrator sends findings to sending state Compact Administrator, who forward it to the sending agency.

Processing delay

Six weeks—30 working days—is the anticipated time from the arrival of application package with the receiving state Administrator to the approval or denial.

Workload and considerations aside from completion of home study (background checks, completion of foster care training programs and approval), however, may delay the decision.

3 Overview of Interstate Compact Process

Safe and Timely Interstate Placement of Foster Children Act of 2006

Timelines for Home Study Approval

State must conduct, complete and report the result of home study within 60 days of request received by receiving state Compact Administrator

Excludes education and training of prospective foster and adoptive parents.

15 day extension possible if circumstances beyond control documented (applicable to studies started on or before September 30, 2008)

Incentives

\$1500 per study if completed within 30 days of request

Must provide data

Caseworkers must visit children in interstate placement every six months

Court must find that interstate placement was considered as part of reasonable efforts when reviewing permanency planning decisions, at permanency hearings and when reviewing concurrent planning

Health and education records

State must provide to children aging out of the system

State must supply to foster placement or other care giver at time of placement

4 Overview of Interstate Compact Process

Regulation 7 - Priority Placement

Two circumstances

1. child to be placed with Compact Article VIII(a) resource, and
 - a. child is under 2 years of age, or
 - b. child is in emergency shelter (must be moved within 30 days), or
 - c. child has previously spent substantial time in the home of the proposed placement.

2. The Compact Administrator in the receiving state has had the properly completed standard (non-priority) ICPC request package for over 30 business days, and the Sending Agency has not received a response determining whether the child may or may not be placed.

MAY NOT be used if:

1. request is for placement of child in licensed or approved foster family home, or
2. request is for adoptive placement, or
3. child is already in receiving state in violation of Compact

Timeline

Business Day 1 -- Court enters order making requisite findings

- Identify appropriate relative
- Qualifying condition (use only the one that applies, not a conjunctive that includes all four).

Business Day 3 – Order must be delivered to sending agency (DHS)

5 Overview of Interstate Compact Process

Business Day 6 – DHS must have complete placement packet to sending state Compact Administrator

Business Day 8 -- Sending state Compact Administrator has sent complete request to receiving state by overnight mail

Business Day 28 -- Receiving state makes final decision and sends fax of completed 100A to sending state Compact Administrator.

Post approval implementation

States work together to finalize details and agreements regarding Finances, monitoring, services and reports to be provided.

Sending agency's responsibilities

Legal and financial responsibility for the child, as though child still residing in sending state.

Termination of responsibilities of sending agency when placement legally terminated upon

return of child to sending state

transfer of jurisdiction to court or agency in the receiving state

child reaches age of majority

child is legally adopted

Different, but related, Interstate Compacts

Interstate Compact on Adoption and Medical Assistance

Assures that adoptive parents of children with special needs receive the services and benefits provided for in their adoption agreements

6 Overview of Interstate Compact Process

Interstate Compact on Juveniles

Governs interstate supervision of adjudicated delinquents and for placement of juvenile delinquency in out-of-state public institutions

Authorizes return of escapees and absconders to their home states

Interstate Compact on Mental Health

Permits transfer of mentally ill and retarded children and adults from public institutions in one state to such institutions in another.

Can be used to secure publically provided after-care in another state

Patient transferred pursuant to this Compact becomes responsibility of receiving state

2. What does DHS do to place Oregon children out of state
 - a. the decision to place out of state
 - b. application assembly process
 - c. home study/approval process
 - d. implementation process
3. What is the role of the court and the parties in this process?

7 Overview of Interstate Compact Process

**Interstate Placement:
The Role of the Court Under
Oregon Law**

**Roles of Court and Agency in
Determining Placement
ORS 419B.337(2)**

- ▶ Agency plans for and places children in its custody
- ▶ Court may specify types of care, supervision or services to be provided to children/ward

**Role of Court in Interstate
Placement**

Court may review placement or proposed placement only to determine that it does not violate the rights of the child/ward or parent.

- ORS 419B.349

“Rights” of child/ward or parents?

Relates to ORS 419B.337 “type of care, supervision and services,” but is also more broad.

“type of placement”

- ▶ Court may determine the “level” of placement but not a specific placement.
- ▶ After determination that rights violated agency to place the child/ward again in accordance with court’s findings
 - *Shrewsbury v. Larson, 52 OrApp 81, 98-99 (1981).*

“types of placement”

- ▶ ORS 419B.349
 - With parents
 - Community foster care
 - Relative foster care
 - Residential care
 - Group care

Court's Influence on Interstate Placement

- ▶ Find that "relative foster care" is in best interest of child, or that it is not.
- ▶ Determine that permanent plan (ORS 419B.476(5)(b)) is one that can only be implemented with either an in or out of state resource.

Review

- ▶ Concurrent planning
- ▶ Reasonable efforts findings

Implementing Interstate Placement

- ▶ Court orders and judgments are necessary part of the package requesting home study
- ▶ Dismissal order to return child or ward to "non offending" out of state parent
- ▶ Court review of agency action under OAR's

Dismiss and send out of state to a parent?

- ▶ Yes -- See OAR 413-040-0280: a child may be returned to non-offending custodial parent as long as jurisdiction, including any temporary custody or shelter care order has been not been made or has been dismissed.

Court Review of Agency's Efforts to Implement Plan for Interstate Placement

Review of Assembling the package to send to receiving state

Contents of Package Sent to Receiving State -- Three Copies of

- Complete, signed CF 100A (placement request)
- Cover letter outlining request
- Form CF 1044 (financial and medical plan)
- Court order establishing jurisdiction and custody in the agency
- Forms CF 147 and 307 (social summary), most recent court report and if available psych eval and eval re current level of functioning and special needs

Ensure necessary court orders are provided to agency

Review at deadline for submission to Oregon Compact Administrator and Review

Court Review in Assembly Phase

Review During Process in Receiving State

- ▶ Review agency's efforts staying in touch with receiving state and prompt reply to requests for information.
- ▶ Not much else.

Review Upon Approval of Placement

- ▶ Ask agency for list of things to be accomplished and anticipated completion dates
- ▶ Review to completion dates

Reasonable Efforts

Almost all review of interstate placement efforts is part of the federal reasonable efforts findings

The New Interstate Compact *for* the Placement of Children (ICPC):

FAQ's Regarding Private and Independent Adoptions

In an effort to continue educating the states and other interested parties about the new Interstate Compact for the Placement of Children (ICPC or Compact), APHSA is providing a series of "Frequently Asked Questions" (FAQ) to address various concerns regarding the New ICPC. The questions and answers below address private and independent adoption concerns regarding the New ICPC. Additional information will be provided as received.

Question 1: Why should private and independent adoptions be regulated under the New ICPC if state regulation and licensing requirements already exist and state courts have the authority to ensure that laws are followed?

State laws, licensing requirements and regulatory agencies do not adequately provide the necessary safeguards to address the needs of children placed across state lines largely due to jurisdictional limitations, hence the need for a cooperative document like a compact. The laws and licensing requirements for private and independent adoptions vary from state to state. While some states' licensing laws and requirements are fixed and comprehensive, some are not. The purpose of the ICPC is to provide protections to children placed across state lines for purposes of foster care and adoption. Most state regulatory agencies only provide periodic licensing checks and or audits annually, bi-annually or at some other interim timeframe. The New Compact gives each child placed in an interstate placement for foster care or adoption individualized attention and protection through case (child and prospective placement resource) assessments and certification of observance and compliance with applicable state and federal laws and their accompanying licensing requirements. Regulatory oversight at a macro level does not provide the necessary case-by-case attention which is critical to adoptive parents, birth parents and children to ensure that all parties are protected and children are placed in safe and suitable placements.

Similarly, state courts and judges presiding in interstate cases and interstate adoptions are not positioned to provide the necessary safeguards that would be available under the New ICPC. In many states and counties, judges rotate their posts within the state court system and do not preside solely over adoption or child welfare cases. They are often unfamiliar with the necessary processes or intricacies of interstate cases. Absent the New ICPC, judges would need to know the state laws and licensing requirements in their state as well in any state from which they receive children or any state to which they send children. State adoption laws differ, procedures involving parental consent, relinquishment of children and legal and putative fathers differ as do many aspects of each State's Code. The New Compact puts in place procedures and establishes accountability which ensures that children in interstate cases are protected despite state differences.

For example, it is not uncommon for birth parents to consent to an adoption in a state where such consent is valid but which is in violation of the laws of their own state. This creates an opportunity for the adoption to be reversed or eventually to disrupt.

Legal matters involving legally recognized fathers, fathers legally separated or divorced from birth mothers and living in another state also raise an array of legal and logistical problems which may further complicate the already complex process in interstate adoptions. The New Compact provides a mechanism for ensuring that the applicable laws of each state are followed.

Of paramount concern, whether processed as a public, private or independent adoption, is the possibility that an adoption may disrupt or dissolve. If disruption occurs prior to finalization or dissolution occurs after an adoption is finalized and the private and/or independent adoption agency or attorney is no longer involved and acting on behalf of the birth mother/father or adoptive parent (s), the state child welfare agency is required to assume custody of the child. Clearly, this outcome is a negative one for the child, adoptive parent(s), and the state. The primary goal of the Compact is to ensure that all interstate adoptions have the greatest opportunity possible of success. One safeguard established by the New Compact is that the applicable laws of each state involved are observed and followed so the interests of all parties involved are protected.

Question 2: Why aren't the regulations included in the language of the New ICPC?

Regulations are not included in the language of the New ICPC to preserve the utility, purpose and function of the Compact. This design was intended by the framers to allow the New ICPC to be responsive to changes in foster care and adoption environments without the need to re-draft or change the Compact itself.

All interstate compacts provide a foundation for cooperation between parties regarding the terms of the compact and once enacted in a state become part of that state's laws. Rules and regulations, on the other hand, serve a separate function in that they create mechanisms to carry out the provisions of a compact. The New Compact establishes rulemaking procedures that are consistent with those required for a state or federal agency. The New Compact creates a process under which rules can be made and enforced and, when necessary, be modified without returning to each state legislature. This structure provides fair and efficient means to address matters which may affect interstate placements in the future. It would be a mistake to include rules and regulations in the body and substantive language of the Compact. Many critics of the current ICPC and Compact Administrators alike acknowledge that many of the administrative processes, which are written into the standing ICPC, are outdated and cause delays in ICPC placements. Because of the structure of the New Compact, in the future such matters can be addressed as necessary through rules and regulations.

Rules and regulations are reserved for deliberation and discussion once the Compact is passed and signatories to the Compact convene and create rules that will facilitate and support the effectiveness of the New Compact. Rules and regulations developed and initiated in this manner provide flexibility in addressing issues as they arise. As a safeguard of states' authority, the

drafters included a provision which allows a majority of the member state legislatures to vote to nullify any rule passed by the Interstate Commission.

Question 3: What enforcement provisions are included in the New ICPC?

The new ICPC includes a new and improved legal framework that will strengthen member states' enforcement authority. Compliance and enforcement will be encouraged by the use of a range of measures, from technical assistance and alternative dispute resolution, including mediation and arbitration, to suspension, termination, and legal action in federal court with fees and costs awarded to the prevailing party. In addition, the New Compact will have a staff and committee structure in place that will permit swift identification of potential problems and a manageable process for addressing concerns of member states in a timely manner. This ability to address accountability and compliance concerns meaningfully will create an environment in which states will work cooperatively to avert major conflicts. The avoidance of such conflicts can only increase the protection of the children whose only advocate of last resort is often the state.

Question 4: How will the rulemaking process differ under the New ICPC as compared to the current ICPC?

The rulemaking process will differ under the New ICPC in a number of ways. First, the New ICPC requires customary due process procedures, including advance notice and publication of rules promulgated by the governing authority, adequate opportunity for debate and deliberation by the party states, and an opportunity for public comment. The current compact, however, does not provide any details or limitations on the manner in which the rules are currently promulgated nor the parameters of the types of rules that can be created.

Additionally, by linking the process of the development of the rules in the New Compact with the principles of the Model State Administrative Procedures Act, the rules of the New Compact will be given legal status that will be recognized by the courts and more enforceable between the states.

The governing structure described in Articles VIII, IX, & X of the New Interstate Compact for the Placement of Children is conceptually like the existing one. The major difference in the New Compact is that an interstate administrative body made up of state representatives will be created (Interstate Commission) with more explicit authority to promulgate rules and regulations. This Commission will have the ability to remedy issues such as the lack of uniformity in administration and interpretation that prevent or hinder administrators of the current ICPC from placing children from one jurisdiction to another in both a safe and efficient manner. In addition, acknowledgement and conformity from state courts in giving full faith and credit to the Compact will enhance uniformity and consistency in the application of the ICPC from state to state. The Interstate Commission will also provide a forum which will promote greater accountability among the member states.

Question 5: ‘What level/type of personnel will be permitted to serve as part of the rulemaking body?’

The level of personnel permitted to serve as part of the rulemaking body may be determined in a number of ways: by the signatory states, the Interstate Commission bylaws, and (or) rules and regulations. In many states, the person who has the authority to make decisions which will bind the state is currently authorized to administer the ICPC. It is anticipated that the initial rulemaking body of the New Compact will also include those vested with the authority to make decisions which bind the state. Member states of the new Compact may decide to stipulate through the bylaws and (or) rules and regulations, the position within a state and the level of education and experience required of individuals who serve on the Interstate Commission.

The beauty of a compact is that it permits members to provide the necessary safeguards for effective processes through rules, regulations and or bylaws. For example, members of the Commission could decide to include advisory requirements such as rules to ensure legal, practical and policy considerations are included in all discussions of a new rule or regulation or change to any existing rules or regulations and that all Interstate Commission representatives have been properly advised and given all pertinent information before voting to implement a rule.

Question 6: How will the states and the New ICPC address state requirements which delay ICPC processing?

The language of the New Compact lays the foundation for states to act uniformly in processing interstate placements. The New ICPC provides a strong legal framework that will require member states to comply and cooperate with the provisions of the Compact. The rules and regulations developed by the Interstate Commission will delineate the provisions of the New ICPC and address administrative processes which have the potential to cause delays. The New Compact will have a staff and committee structure in place that will permit swift identification of potential problems and a manageable process for addressing concerns of member states in a timely manner. Accountability of and compliance from member states will be encouraged through the use of technical assistance and alternative dispute resolution. When enforcement of the New Compact is necessary, the member states will have the tools of mediation and arbitration, suspension, termination, and legal action in federal court available to them. The ability to address accountability and compliance concerns, which is integral to the structure of the New Compact, will help states to identify problems before major conflicts occur and provide members with a final resolution forum in the federal courts if a disagreement can be resolved in no other way.

Question 7: Why does the New ICPC require individuals involved in private and independent adoptions to make a request for an assessment through the public child placing agency in the sending state and upon completion require approval from the public child placing agency in the receiving state for interstate adoptions?

The New ICPC requires that an assessment for a private or independent adoption be requested through the public child placing agency in the sending state and upon completion, approval by the public child placing agency in the receiving state to provide both the sending and receiving states with proper notice of an interstate adoption. This procedure ensures that children placed across state lines are afforded the protections which are required by federal and state law and guaranteed under the New ICPC. The rules which will govern the administrative processes used in interstate placements will be established under the principles of the Model State Administrative Procedures Act. The key to rules and regulation developed through this process is for private, public and government entities to be actively involved so that the resultant product is as simple, fair, and efficient as possible. Clearly the joint effort and cooperation of all involved will help to expedite safe and timely interstate placements.

For example, hypothetically, the process for requesting an assessment can occur by providing notice that an assessment is needed within a particular state by submitting a request electronically and receiving verification of the request electronically. Furthermore, the private placement agency could be at liberty to use an approved (licensed) agency/worker from an official list to conduct the assessment within the receiving state, thereby not increasing the work load of existing state staff or creating the need for states to increase their child welfare staff. Upon completion of the assessment, the public agency in the receiving state could provide approval or denial electronically within a set (specified) number of days to the sending state and private or independent agents involved. The Interstate Commission could determine through the rules and regulations how and when the ICPC offices would function through this process.

Question 8: Why are the time-lines, standards, procedures and information required for conducting assessments undefined and not included as part of the New ICPC?

Time-lines, standards, procedures and information required when conducting assessments are an intrinsic part of the administrative process. Administrative processes ultimately operationalize the Compact and should be defined within the rules and regulations. More importantly, there are a number of variable elements to be considered when the New ICPC is enacted by the 35 states required to make the Compact law. These variables may include changes or advancements in areas of legislation and court decisions, federal and state policy, practice, technology and environment. It would be imprudent to include administrative processes before member states have the opportunity to discuss important factors which may have a direct impact on interstate placements. To include such matters in the substantive articles of the New Compact would remove the ease and flexibility available to address timely challenges and to modify rules without returning to each state legislature.

Question 9: How will the administration of the New ICPC differ from administration of the current ICPC and its cumbersome and bureaucratic processes?

The states and the Interstate Commission will have full opportunity and authority to remove the cumbersome, bureaucratic and unnecessary aspects of the current ICPC. By creating rules, regulations and administrative processes and by clarifying the role, duty and responsibility of the

ICPC offices throughout the states, the Interstate Commission can remove jurisdictional and procedural barriers which have been proven to cause delays in interstate placements.

For example, one of the many barriers recognized in the current ICPC process are the different requirements states have for processing ICPC paperwork and for obtaining timely home study requests and reports. The Interstate Commission, in its charge to establish rules, may include common elements from member states and private, public and other external organizations and promulgate rules and regulations to ensure uniformity and consistency in the processing of interstate cases throughout the country.

It is well settled that the existing interstate agreement has been severely compromised by individual state actions. States have unilaterally determined the meaning and coverage of the compact, changed the statute, and changed the process and procedures for interstate placements. There is no longer common agreement between states concerning placements of foster and adoptive children. One of the many reasons it is imperative and urgent that the states move forward to enact the New Compact is so states can begin developing a new, improved, and uniform process for interstate placements.

Question 10: Will the Interstate Commission function as a Super Legislature and is such a rulemaking body permitted by the Constitution?

The idea that the Interstate Commission is potentially a Super Legislature is a misconception of the function and eventual capacity of the Interstate Commission as provided for within the New ICPC. The New Compact provides for authorized representatives of the member states “. . . *who acting jointly with like officers of other party jurisdictions, shall have the power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact*” (see ICPC, Article VII).

Much has been made of the fact that provisions of the compact would supersede conflicting state laws as adopted under Article XVII (a) (2) of the agreement. All interstate compacts supersede conflicting state law whether this is clearly stated within the language of the compact or not. Compacts are used to engender and ensure cooperation and agreement in specific interstate matters when two or more states are required to interact in accomplishing common goals; their purpose is not to supersede individual state laws. To permit a state to unilaterally amend a provision of an interstate compact by enacting a conflicting state law would defeat the need and purpose of using the Compact or a compact at all. For example, if the member states to a compact agree that for purposes of interstate placements, the age of majority is x, then when two or more member states are processing an interstate placement, the age of majority must be x.

The constitutional validity of the authority of states to enter into interstate compacts and delegate rulemaking authority to an interstate agency created under the compact was specifically recognized and upheld by the U.S. Supreme Court in the case of *West Virginia, ex rel Dyer vs. Sims*, 341 U.S. 22 (1951). In deciding this issue the Court observed, “*That a legislature may delegate to an administrative body the power to make rules and decide particular cases is one of the axioms of modern government.*” Referring to the delegation of such power to an

administrative agency as a “*conventional grant of legislative power*” the court upheld the validity of the compact rule in question. Given the Supreme Court’s decision in *West Virginia, ex rel Dyer vs. Sims*, the legislative delegation of rulemaking authority to an interstate compact agency (such as the Interstate Commission included in the New ICPC) is not conceptually different from that granted by a state legislature to one of its in-state administrative agencies. Accordingly, such delegations of authority are subject to the limitation that the rules promulgated do not exceed the scope of the statutorily delegated authority. Therefore, it is critical that the authority to make rules be clearly articulated in the compact language as provided for within the New ICPC.

Guideline to Achieving Permanency

	1-31 Days	31-60 Days	61- 180 Days (2-6 Months)	181- 240 Days (6-8 Months)	241-365 Days (8-12 Months)	366-540 Days (12-18 Months)	541-730 Days (18-24 Months)
Safety	CPS Assessment, Safety Analysis, Child Safety Meeting Develop Conditions for Return	Develop Expected Outcomes	Review Safety Plan	Review Safety Plan	Review Safety Plan	Review Safety Plan	Review Safety Plan
Permanency	Return child home or... Develop Visit Plan Assess sibling issues Begin relative search ASFA disclosure ICWA ID legal parties Absent Parent Search Father's Questionnaire	Return child home or... Review Visit Plan Assess sibling issues Continue to assess relatives Protective Capacity Assessment OFDM/ Develop Plan and Concurrent Plan Action Agreement	Return child home or... Review Visit Plan Assess sibling issues Conclude Initial Relative Search FDM/Action Plan Review-Discuss Concurrent Plan progress 90 Day Case Plan Review, Discuss Plan and Concurrent Plan progress	Return child home or... Review Visit Plan Assess sibling and relative issues Assess Adoptability Protective Capacity Assessment FDM/Action Agreement Review- Discuss Plan/Concurrent Plan progress Current Caretaker staffing, Guardianship Study Complete Homestudy	Return child home or... Review Visit Plan Assess sibling and relative issues Begin Recruitment FDM/Action Agreement Review- Discuss Plan/Concurrent Plan progress Current Caretaker staffing, Guardianship Study Complete Homestudy	Return child home or... Review Visit Plan Assess sibling and relative issues Achieve Guardianship or arrange Permanent Foster Care if there is compelling reason for child to not be returned to parent, adopted or placed in guardianship plan File TPR- Mediation Secure Relinquishments Adoption Committee	Return child home or... Protective Capacity Assessment Review Visit Plan Assess sibling and relative issues Finalize Adoption Complete Guardianship Review APPLA Plan to determine if higher level of permanency can be implemented (Adoption, Guardianship)
Well Being	Obtain Releases of Info Well Child exam Mental health assessment Order Birth Cert and SSN Card Early Intervention Referral	Order Birth Records Begin 246 Photograph Child/ Parents Order prior service records of parents	Review Mental Health/ Medical/ Educational needs	Review Mental Health/ Medical/ Educational needs	Review Mental Health/ Medical/ Educational needs	Review Mental Health/ Medical/ Educational needs Complete 246	Review Mental Health/ Medical/ Educational needs
Administrative and Legal Tasks	Shelter Hearing Case Plan 310 Series	Jurisdiction/ Wardship 333a	CRB AAG Initial Legal Review	333a, 310 series	AAG Permanency Legal Review Permanency Hearing CRB	TPR Trial 333a, 310 Series	Court Review of PFC 333a, 310 Series CRB