

# The Preventing Sex Trafficking and Strengthening Families Act

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# HR 4980 (2014)

- Background
- Oregon implementation
  - HB 2908
    - Permanency planning
    - Reasonable and prudent parent standard
    - Youth age 14 and up
  - DHS Rules
    - In addition to topics above, address sex trafficking
- Overlapping state legislation
  - SB 501 (State funded guardianship assistance)
  - HB 2980 (Extracurricular activities)
  - HB 2232 (Runaway and homeless youth)
  - HB 2205 (Fund to End Commercial Sexual Exploitation of Children)

# Overview

Sex Trafficking

Permanency planning

Reasonable and prudent parent standard

Youth 14 and older

# Sex Trafficking: DHS

- Identify and provide services. DHS must develop a plan to identify, document and determine appropriate services for children who are, or are at risk of, being sex trafficked by 10/1/15.  
42 U.S.C. §671(a)(9)(C)
  - DHS must implement plan by 10/1/16.
- Runaway children: DHS must develop and implement protocols by 10/1/15 for: 42 U.S.C. §671(a)(35)(A)
  - Expeditiously locating any child missing from foster care;
  - Determining the child's experiences while absent, including screening for sex trafficking;
  - Reporting this information to the federal government.

# Sex Trafficking: DHS

- New DHS reporting requirements (by 10/1/16): 42 U.S.C. §671(a)(35)(B)
  - Sex trafficking victim. Report to law enforcement immediately after receiving information that a child has been sex trafficked.
  - Missing or abducted children. DHS must report immediately to:
    - Law enforcement authorities for entry into the National Criminal Information Center database (FBI); and
    - National Center for Missing and Exploited Children
  - Sex trafficking data in the Adoption and Foster Care Analysis and Reporting System.
    - DHS to report annually the number of children in foster care who are identified as victims.

# Sex Trafficking: Courts

- Local response
  - Multi-Disciplinary Teams/DOJ Victims Services
  - Model courts
- Runaway youth
  - Notice to court and parties (under development)
- Review of services (10/1/16)
  - Screening
  - Placement
  - Prevention, intervention

# Permanency Planning

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

# APPLA

- Limited to children age 16 and up. (10/1/15) ORS 419B.476(5)(b)(E); ORS 419A.004(2)
- Acceptable permanency plans for children under the age of 16 include:
  - Reunification
  - Adoption
  - Guardianship
  - Placement with a fit and willing relative



# APPLA: DHS

- Before the plan may be changed to APPLA:
  - DHS must document intensive, ongoing efforts to return child home, secure placement with a fit and willing relative (including adult siblings), a legal guardian or an adoptive parent. 42 U.S.C. §675A(a)(1)



# APPLA: Court's role

- DHS shall implement procedures to ensure the court asks the child about the desired permanency outcome for the child. 42 U.S.C. §675A(a)(2)(A)
  - What efforts have been made for the child to be present at the hearing?
  - Does the child understand his/her permanency options?
  - Are there alternative ways for the child to be heard?
- Court must make judicial determination explaining why APPLA is the best permanency plan, and provide compelling reasons why it's not in the child's best interest to be in a higher level plan. U.S.C. §675A(a)(2)(B)

# Placement with a Fit and Willing Relative

- Separate and distinct permanency plan in ORS 419B.476(5).
- Who may serve as “relative”?
  - Plan may be changed before a resource is identified.
  - OAR 413-070-1010(1) & (2) allows child to be placed with person meeting the definition of relative or a person:
    - with a caregiver relationship under ORS 419B.116(1) for the child placed in DHS custody,
    - who is placed in foster care through the Office of Developmental Disabilities Services.

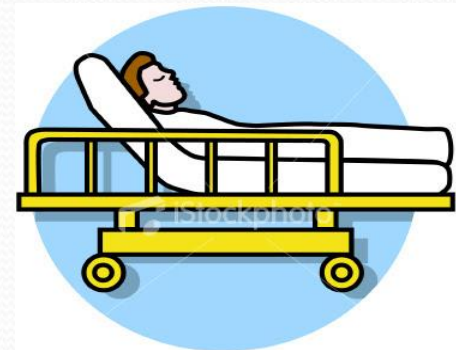
# Placement with a Fit and Willing Relative

- Agreement required.
  - Placement with a Fit and Willing Agreement to be signed within a reasonable time after court approves plan and relative resource has been approved. OAR 413-070-1020(7)
  - Relative must make permanent commitment to care for the child and agree that this is a lifelong commitment.



# Guardianship: Death or Incapacity

- Death or Incapacity:
  - Successor guardian: Effective 10/1/14
    - May be designated in the guardianship assistance agreement at any time prior to the incapacity or death of the guardian.
      - Allows successor guardian to receive Title IV-E guardianship assistance on behalf of the child without being a relative.
      - DHS will conduct a background check (criminal and DHS records) and will notify the court if the child will not be eligible for guardianship assistance.

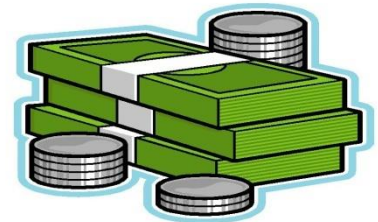


# Guardianship: Death or Incapacity

- Order appointing guardian must be modified under ORS 419B.368(2) before DHS will approve new guardianship assistance agreement with successor guardian.
  - May modify if in the child's best interests. Court shall consider (ORS 419B.368(5)(a))
    - Ward's emotional and developmental needs
    - Ward's need to maintain existing attachments and relationships
    - Ward's health and safety
    - Ward's wishes
- Vacating the original order appointing guardian will require that the child be re-qualified under Title IVE if DHS is granted legal custody

# Guardianship Funding

- State funded guardianship assistance: ORS 418.330; ORS 418.335
  - SB 501 allows DHS to use state funds for guardianship assistance. OAR 413-070-0917(2):
    - Child must not be eligible for Title IV-E
    - Proposed guardian must meet DHS definition of relative
      - For purposes of guardianship, this includes a foster parent who has cared for the child 12 out of the last 24 months. OAR 413-070-0000(78)(e)
    - Additional requirements: OAR 413-070-0917(2)(b)
      - U.S. citizen or qualified non-citizen
      - Removed by voluntary placement, or judicial determination (contrary to welfare)
      - Strong attachment to proposed guardian
      - Resided in guardian's home for past six (or 12) months.



# Siblings

- Notice required to parent of siblings.
  - Within 30 days of the child's entry into care, requires DHS to provide notice to a parent of a sibling, when the parent has legal custody of the sibling. 42 U.S.C. 671(a)(29)
- New definition.
  - Redefines sibling to include individuals who would have been considered siblings except for a termination or other disruption of parental rights. 42 U.S.C. 675(12); OAR 413-010-0310(9)
- Effective 10/1/14



# Reasonable and Prudent Parent

Federal requirements  
State implementation



# Reasonable and Prudent Parent (Federal Law)

- Defined:

- Standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child to participate in extracurricular, enrichment, cultural and social activities. 42 U.S.C. 675(10)(A); ORS 419A.004(21)

- Requirements in federal law:

- Foster parent training
- DHS documentation regarding steps to ensure the standard is being followed and the child has appropriate opportunities
- Court and administrative review findings when child in APPLA

# Reasonable and Prudent Parent (State law)

- Defined.

- “Reasonable and prudent parent standard” added to ORS 419A.004 (21).

- Court report.

- DHS must report on steps to ensure the substitute care provider is following the reasonable and prudent parent standard, and that the child has regular, ongoing opportunities to engage in age-appropriate, or developmentally appropriate activities. ORS 419B.443(g)

- Findings.

- Requires juvenile court and CRB to make a finding whether DHS efforts are sufficient when child is age 16 and up and in an APPLA plan. ORS 419B.476(5)(g)(B) (permanency); ORS 419B.449(3)(e) (review); ORS 419A.116(1)(j) (CRB)

Effective 10/1/15

# Minimum Requirements

- One activity required. ORS 419B.194
  - Requires the substitute care provider to provide opportunity for child to participate in at least one extracurricular activity.
    - Summer camp or religious services alone aren't sufficient.
- Payment.
  - DHS and substitute care provider shall confer to determine who is responsible for payment.
- Effective 1/1/16



# Court and CRB Findings

- Model Review and Permanency Judgments can be downloaded at the JCIP website: ORS 419B.476(5)(g)(B); 419B.449(3)(e).  
<http://courts.oregon.gov/OJD/OSCA/cpsd/courtimprovement/jcip/Pages/Model-Forms.aspx>
- The court finds DHS \_\_\_ has \_\_\_ has not taken sufficient steps to ensure that the ward's substitute care provider is following the reasonable and prudent parent standard and the ward has regular, ongoing opportunities to engage in age-appropriate or developmentally appropriate activities.

# Considerations

- What opportunities is the child currently being provided?
- When did the caseworker consult with the provider and child about activities?
- Are there any activities the child is interested in?
- Are there barriers to participation (such as funding or transportation) and what is being done to address these?

# Children Age 14 and Older

Case Planning

Transition to successful adulthood

Credit reports

Bill of rights



# Age 14 and Older: Case Planning

- Case planning: 42 U.S.C. 675(5)(c)(iv); OAR 413-040-0010(3)
  - Child may choose up to 2 members of case planning team (who are not foster parent or caseworker)
    - ✦ State may reject an individual if there is good cause to believe the person would not act in child's best interests
    - ✦ One individual may act as child's advisor and advocate with respect to the application of the reasonable and prudent parent standard
- Effective 10/1/15



# Transition Planning

- Starts at age 14.
  - Transition planning starts at 14, regardless of permanency plan: 42 U.S.C. 675(5)(c)(i); ORS 419B.343(3)
  - “Transition to successful adulthood” replaces “independent living”
  - Consultation required.
    - As with the case plan, the transition plan must be developed in consultation with the youth and, at the option of the youth, with up to two members of the case planning team. 42 U.S.C. 675(5)(1)(B).



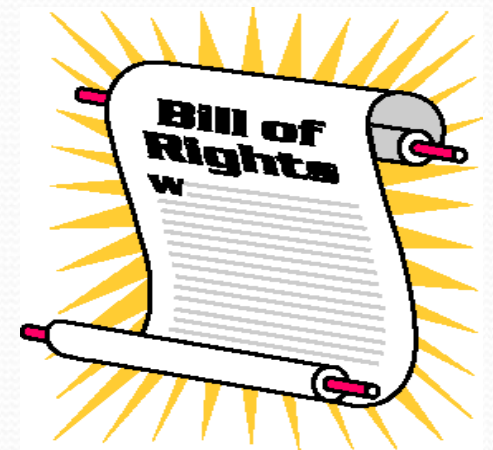
# Credit Reports

- Annual credit reports:
  - DHS must run annually starting at age 14. 42 U.S.C. 675(5)(I)
  - Child must receive assistance in interpreting and resolving inaccuracies in report.



# Rights

- Rights:
  - Case plan must include a document that describes the child's rights and a signed acknowledgment by the child that s/he has received it and it has been explained in an age-appropriate way. 42 U.S.C. 675A(b); ORS 418.201(5)(d); OAR 413-040-0010(1)(j)(A) & (B)
  - New brochure for youth age 14 and up.



# Model Permanency Judgment: Transition Planning Findings

     **Plan review not required:**

     **Plan review required:**

     the child is 14 years or older.

     The comprehensive plan      **is adequate**      **is not adequate** to ensure the child's transition to a successful adulthood.

     DHS      **has**      **has not** offered appropriate services pursuant to the comprehensive plan and      **has**      **has not** involved the child in the development of the comprehensive plan.

DHS is ordered to modify the comprehensive plan and/or the development of the plan as follows: \_\_\_\_\_

# Questions?

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