



JCIP MODEL DEPENDENCY FORMS SUMMARY OF CHANGES EFFECTIVE DECEMBER 12, 2016

The following forms were revised during this review cycle: (1) shelter orders, (2) jurisdictional and dispositional judgments, (3) review judgment and (4) permanency judgment. Details regarding the changes are provided below.

1. New ICWA Regulations.

New regulations to the Indian Child Welfare Act (ICWA) clarify that when the court exercises emergency jurisdiction to prevent imminent physical damage or harm to the child, jurisdiction can continue only for so long as the emergency exists. A second shelter hearing is required when the court receives new information that the emergency situation has ended, and in no event later than 30 days without additional findings. 25 C.F.R. §23.113. The ICWA shelter form has been revised to remind courts to schedule a follow up hearing within 30 days when the court asserts emergency jurisdiction under 25 U.S.C. §1922.

Federal and state law still require the court to find, by clear and convincing evidence, including testimony of a qualified expert witness, that continued custody of the child by the parent is likely to result in serious emotional or physical damage, before ordering the child's removal from the home. 25 U.S.C. § 1912(e); ORS 419B.340(7). If no expert is available, and the court finds removal is necessary to prevent imminent physical damage or harm to the child, the court may order an emergency removal pursuant to 25 U.S.C. §1922. The ICWA shelter order has been revised to delineate these two options more plainly.

Finally, language regarding temporary emergency removal/placement jurisdiction has been removed from the jurisdictional/dispositional judgments since an expert should be available to testify by the time of that hearing.

2. Reasonable Efforts in Shelter Orders and Jurisdiction/Disposition Judgments

The reasonable efforts language in these forms was revised to make it easier to navigate. In the jurisdictional/dispositional judgments, efforts prior to removal and efforts post removal are more clearly delineated.

3. Exception to TPR when Child Permanently Placed with a Relative

The permanency judgment was updated to clarify that when a child is placed with a relative, the court is not precluded from ordering a plan of adoption. The Court of Appeals has

interpreted the exception to TPR/adoption in ORS 419B.498(2)(a) (child is being cared for by a relative and that placement is intended to be permanent), to apply to situations in which the intended permanent placement is something other than adoption. See *Dept. of Human Services v. H.R.*, [241 Or App 370 \(2011\)](#).

Questions or comments about the forms should be directed to Megan Hassen at megan.e.hassen@ojd.state.or.us or 503.986.6403.