



## JCIP MODEL DEPENDENCY FORMS 2015 SUMMARY OF CHANGES

### **1. APPLA limited to wards age 16 and older.**

The Preventing Sex Trafficking and Strengthening Families Act of 2014 and Oregon's implementing legislation, HB 2908, restrict the use of Another Planned Permanent Living Arrangement (APPLA) to wards age 16 and older. Effective October 1, 2015, any ward in an APPLA plan who is younger than 16 will need to have his or her plan changed to Placement with a Fit and Willing Relative, Guardianship, Adoption or Reunification at the next scheduled permanency hearing. The new federal law requires DHS, at the permanency hearing, to document intensive, ongoing, unsuccessful efforts to achieve a higher level permanency plan and to ensure the court asks the child about his or her desired permanency plan before the plan is designated as APPLA.

Additional changes to state law increase the availability of higher level permanency plans than APPLA. First, House Bill 2908 amends ORS 419B.476(5)(b) to explicitly allow the court to designate a permanency plan of Placement with a Fit and Willing Relative. DHS has proposed rules that would implement this plan through the use of a Placement with a Fit and Willing Relative Agreement and, in addition to persons who meet the broad definition of relative under DHS rule, will allow a person who has a caregiver relationship under ORS 419B.116(1) with the child to qualify as a "relative" if the child is placed in foster care paid through the Office of Developmental Disabilities Services.

Second, Senate Bill 501, effective August 12, 2015, allows DHS to provide state funded guardianship assistance. ORS 418.330 and ORS 418.335. The new legislation provides DHS with the ability to provide guardianship assistance to those children who otherwise wouldn't be eligible for assistance under Title IV-E of the Social Security Act. DHS has adopted a temporary rule, OAR 413-070-0917, to outline eligibility for assistance, and will be adopting a permanent rule effective October 1, 2015. The temporary rule restricts use of these funds to foster parents who meet the definition of "relative", which includes a foster parent who has cared for the child for at least 12 of the past 24 months. OAR 413-070-0000(78)(e).

### **2. Extracurricular activities.**

The Preventing Sex Trafficking and Strengthening Families Act requires DHS to train foster parents on the "reasonable and prudent" parent standard for the child's participation in age or developmentally appropriate extracurricular, enrichment, cultural and social activities. A number

of amendments were made to the juvenile code by HB 2908 to implement this requirement, as explained in more detail below.

ORS 419B.476(5) requires the court to determine if DHS has taken sufficient steps to ensure the substitute care provider is following the “reasonable and prudent parent standard” and that the ward has regular, ongoing opportunities to engage in age-appropriate or developmentally appropriate activities when the court designates the plan as APPLA at a permanency hearing. Similarly, ORS 419B.449 and ORS 419A.116 require the court and Citizen Review Board to make the same finding at periodic review hearings when the permanency plan under review is APPLA. A finding has been added to the review and permanency judgments allowing the court to document these determinations. Finally, DHS is required to report the steps it has taken to ensure the foster parent is following this standard, and the opportunities the child has to participate in these activities pursuant to ORS 419B.443. The Uniform Court Report includes prompts for the caseworker to include this information.

### **3. Reasonable efforts findings.**

The review and permanency judgment have been revised to delete language that the reasonable efforts determination is for the “period under review” in response to the recent Oregon Court of Appeals decision in *Dept. of Human Services v. T.S.*, 267 Or App 310 (2014). The *T.S.* decision clarifies that the reasonable efforts determination is not limited to the period since the last hearing, but rather, the court may consider DHS efforts over the life of the case.

### **4. Annual Guardian’s Report and related forms.**

There were two minor changes made to this set of forms. First, language directing the guardian to sign the annual report in front of court staff or a notary was deleted. Senate Bill 375, effective May 20, 2015, amended ORS 419B.367 to allow guardians to sign the report using a declaration under penalty of perjury. Second, the court response section at the end of the Annual Guardian’s Report was removed and a new “Order After Guardian’s Annual Report” has been drafted to serve the same purpose. This will allow the documents to be more easily filed in accordance with ORS 419A.255, which requires the annual report to be filed in the supplemental confidential file and the order to be filed in the record of the case.

### **5. Grandparent findings.**

Statutory references to the definition of “grandparent” in ORS Chapter 109 have been removed from the forms. Effective January 1, 2016, HB 3014 expands the definition of grandparent for purposes of notice and visitation in juvenile dependency proceedings to include parents of the child’s or ward’s legal parent, regardless of whether the rights of that parent have been terminated under ORS 419B.500 to 419B.524.

## **6. Miscellaneous changes.**

Based on feedback and requests we receive from stakeholders and courts, the following modifications have been made to the forms: (1) space to allow the court to appoint a CASA has been added to the shelter orders and jurisdiction/disposition judgments; (2) space to allow the court to appoint attorneys has been added to the shelter orders; and (3) language allowing DHS to disclose records has been modified and added to the review and permanency judgments.

## **7. Conformance with Odyssey version.**

Finally, the model forms underwent extensive formatting revisions to bring them into alignment with the Odyssey version of the forms. As part of this effort, orders have been moved to the end of the forms, with the exception of the permanency judgment. Further discussions will occur in 2016 to determine if similar revisions will be made to the permanency judgment.

Questions or comments about the forms should be directed to Megan Hassen at [megan.e.hassen@ojd.state.or.us](mailto:megan.e.hassen@ojd.state.or.us) or 503.986.6403.