



JCP6-20

OREGON JUDICIAL DEPARTMENT  
Office of the State Court Administrator

February 11, 2020  
**(SENT BY EMAIL)**

MEMORANDUM

TO: Presiding Judges  
Juvenile Court Judges  
Trial Court Administrators

FROM: Leola McKenzie, Director  
Juvenile and Family Court Programs Division (JFCPD)

RE: Assignment of Case Numbers in Juvenile Dependency

**Background and Proposed New Rule**

The Juvenile and Family Court Programs Division convened a work group beginning in December of 2018 to determine whether any changes should be made to the Oregon Judicial Department (OJD) Business Process for assigning case numbers in juvenile dependency. As you may recall, a new case number is assigned each time a dependency case is filed, regardless of whether the child is currently a ward of the court. Under this system, some children have multiple case numbers for only one incident of wardship.

After examining the benefits and drawbacks of the current business process, the work group determined that keeping all of the child's petition allegations under one case number would be the most efficient way to organize the case, provided certain legal protections are in place. The group developed the attached draft UTCR to put some parameters on how this should happen. The work group has recommended that the Chief Justice adopt an out-of-cycle UTCR effective August 1, 2020. A more detailed summary of the work group's decision-making process and recommendations is attached below, along with a chart that explains how petitions and judgments in dependency cases will be labeled under the proposal.

**Question and Answer Sessions**

We will be holding conference calls on Tuesday, February 25, at 8:00 a.m. and 12:00 p.m. (noon) to briefly explain the proposal, answer questions, and collect feedback. The calls will be recorded for those who may miss them. Please use the following numbers to call in:

Dial-in number: 1.866.921.1127  
Conference code: 826 398 3530

MEMORANDUM  
Page 2  
February 11, 2020

### **Work Group to Develop New Business Process**

Over the next several months, we will be working on revising the business process to be consistent with the proposed UTCR. This will include a discussion of how new petitions will be handled during the transition to the new business process when a child already has multiple case numbers for a single incident of wardship. We will be convening 10 to 12 trial court staff and supervisors, along with representatives from Enterprise Technology Services Division (ETSD), Business and Fiscal Services Division (BFSD) and Office of General Counsel (OGC), in Salem to help us develop the new process on April 7, May 6, and June 9. Our goal is to include staff who are from geographically diverse parts of the state and who represent small, medium, and large courts.

**Please email Yousef Allouzi at [yousef.k.allouzi@ojd.state.or.us](mailto:yousef.k.allouzi@ojd.state.or.us) by February 28** to recommend a staff person or supervisor to participate in the development of the business process. Travel expenses will be covered by our JCIP grant, and lodging is available for those traveling from far distances.

### **Save the Date! July 16 Training**

We will be inviting juvenile court staff and supervisors to attend a training on the new business process in Salem on July 16. Additional details and registration information will be provided by a separate memo. Please inform your juvenile court data-entry staff and supervisor of this date now, so they can hopefully arrange their schedules to attend this training.

Please contact Yousef Allouzi at [yousef.k.allouzi@ojd.state.or.us](mailto:yousef.k.allouzi@ojd.state.or.us) or 503-986-5139 if you have any questions about the business process work group or training. Please contact Megan Hassen at [megan.e.hassen@ojd.state.or.us](mailto:megan.e.hassen@ojd.state.or.us) or 503-986-4511 if you have any questions about the proposed UTCR.

LM:ma/20jLM003ma

Attachments

ec: OSCA Division Directors  
Megan Hassen, JFCPD  
Yousef Allouzi, JFCPD  
Jessica Roeser, BFSD  
Amy Emig, ETSD

## Post Jurisdiction Dependency Petition Draft, Version 8

### UTCR 11.130 NEW DEPENDENCY PETITION ALLEGATIONS, WHEN CHILD IS A WARD

- (1) When a child is already a ward of the court under ORS 419B.100 and ORS 419B.328, any new petition containing new allegations under ORS 419B.100 must be filed under the ward's existing dependency case number, unless otherwise permitted under ORS 419B.118.
- (2) In addition to the requirements of ORS 419B.809, ORS 419B.863, and ORS 419B.866, a petition filed under an existing wardship must:
  - (a) Include in the document title:
    - (i) the label "PETITION (Existing Wardship – Additional Allegations)"; and
    - (ii) the sequential number of the existing wardship petition in parenthesis after the label above, ie., "PETITION (Existing Wardship – Additional Allegations)(First); and
  - (b) Include in the body of the petition:
    - (i) the date of the initial judgment establishing jurisdiction over the ward during the current wardship episode;
    - (ii) the existing bases of jurisdiction; and
    - (iii) the date each basis was established in a judgment of jurisdiction and whether each allegation was admitted or otherwise proved.
- (3) A copy of any new petition containing new allegations under ORS 419B.100 filed during an existing wardship must be served with a summons in accordance with ORS 419B.815.

### UTCR 11.140 DEPENDENCY JUDGMENTS OF JURISDICTION

- (1) A judgment of jurisdiction entered under ORS Chapter 419B must state whether each allegation in the petition that is established in the judgment was admitted or otherwise proved.
- (2) Except for a corrected judgment or a judgment reentered or modified after or during appeal under ORS 419A.209, a judgment of jurisdiction entered after the initial judgment of jurisdiction and entered during the existing wardship must be numbered sequentially, starting with "Second Judgment of Jurisdiction" in the document title.
- (3) A judgment of jurisdiction entered under ORS Chapter 419B that is based on an existing wardship petition must include the:
  - (a) the bases of jurisdiction previously established during the existing wardship that have not been dismissed;
  - (b) the date each basis was established in a judgment of jurisdiction; and
  - (c) the date of the first judgment establishing jurisdiction over the ward during the current wardship episode.

## Assignment of Case Numbers in Juvenile Dependency Workgroup Recommendations

Juvenile and Family Court Programs Division  
February 2020

Late last year, we convened a statewide workgroup comprised of judges, court staff, OSCA representatives, defense counsel, DOJ representatives and a DHS representative, to consider whether our current system of assigning one case number per petition in juvenile dependency cases is working. We have held three in person meetings for the full workgroup, and seven conference calls of a smaller subcommittee, to examine this question and recommend alternatives, if appropriate. What follows is a summary of the workgroup’s activities and recommendations.

### I. Background.

The group began its work by identifying the underlying values and objectives that should guide our judgment about whether the current business process is adequate. The group came up with the following:

Values	<ul style="list-style-type: none"> <li>• Consistency</li> <li>• Accountability</li> <li>• Neutrality</li> <li>• Clarity</li> <li>• Fairness</li> <li>• Efficiency</li> <li>• Timeliness</li> <li>• Understandability of what’s going on in the case</li> <li>• Maintain the court’s role as a neutral</li> <li>• Clear expectations for parents</li> </ul>
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Objectives	<ul style="list-style-type: none"> <li>• Comprehensive/cumulative pleading while child is ward (all issues in one document)</li> <li>• Clear and complete record to Court of Appeals</li> <li>• Ability to review all information about the child in OEI</li> <li>• Reduction of workload for courts, CRB, parties, attorneys preparing judgments and filing documents</li> <li>• Ability to track subsequent petitions in same case</li> <li>• Standardized process from county to county</li> <li>• System matches business process to legal requirements</li> <li>• Clear process for all players (including parents) driven by law</li> <li>• Ability to look at one case and see the entire picture</li> <li>• Ability to extract data</li> <li>• Fully utilize technology</li> </ul>
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The group also considered the benefits and drawbacks of the current business process that assigns a new case number for each petition filed. The group identified the following problems with the current system:

- Data entry time consuming with multiple cases per child
- Creation of multiple judgments and multiple filings increases workload
- Have to appoint attorneys and CASAs for each new case
- Confusing to determine all related case numbers
- Parties filing in wrong cases or not at all
- Cases on appeal decided on record that is inconsistent with the trial judge's intentions
- Encourages looking at new petition in a vacuum and not entire family
- Parents confused because there are multiple cases and they think of it as one case – it's traumatic each time they are faced with a "new case"
- Confusion about grounds of jurisdiction for the child
- Something that should be on multiple cases is only on one
- Difficult to see the flow/history of child between multiple cases
- Focuses on structure not best interests of child
- Hearing notices are duplicative and confusing
- More difficult for parents to understand what they have to do to get child returned
- Confusing for DHS caseworkers to have multiple cases when they think of it as one family
- Judges can't view 2 separate cases at the same time easily – difficult to take notes for next judge in each case

After considering the benefits and drawbacks of the current system, and comparing them to the group's values and objectives, the majority of workgroup members believe the current business process of assigning a new case number to each petition is inadequate.

By the time of the second full meeting of the workgroup, Odyssey announced that additional functionality for juvenile cases will be available in Odyssey 2018. According to an analysis by ETSD in May of 2019, the new functionality will include:

- Improved ease of relating cases;
- The ability to auto create a similar case number for a new petition (it will add an extra number to a main case number: -01, -02, -03, etc.)
- Juvenile demographics (party identifiers) are now shown in the case summary in Odyssey
- Related cases are now identified via the global party record
- The ability to view a case summary of a related case without having to open it (Odyssey 2018 will also allow the user to open up multiple cases from the same window)
- A register of actions which blends case events for related cases involving the same child into one screen

Even if adopted, however, these new features will not be available to OEI users.<sup>1</sup> Although Odyssey 2018 would allow for the addition of an extra number to a main case, we understand these cases will still be separate. Consequently, we don't anticipate that Odyssey 2018 will provide a solution to the central problem of having multiple case numbers for one wardship event. The new changes will not be available at the time of the initial expected rollout of Odyssey 2018 in October of 2020. Rather, it is a functionality that will have to be implemented separately. It is not expected that ETSD will have the capability to roll it out at least until 2021.

Given the uncertainty of the timing and effectiveness of the new juvenile functionality in Odyssey 2018, we conducted a survey of the workgroup about next steps in May 2019. At the time we conducted the survey, ETSD believed that we would be able to test the new juvenile functionality in early 2020, about a year sooner than currently estimated.

The survey results are summarized below:

- Out of the 23 people who responded to the survey, six (2 judges; 4 trial court staff) do not think a business process change is needed. Of those six, five people think we should focus on training instead of changing the business process.
- Of the remaining responses, 16 people do not think the current business process is sufficient. Of the 16 responses:
  - Eight (7 OJD staff and 1 attorney) think we should wait until we know whether Odyssey 2018 will provide a solution.
  - Seven (3 judges; 2 attorneys; 1 OSCA rep and DHS) think we should immediately take necessary steps to implement the one case per child per wardship system.
  - One (DOJ) would like us to determine whether Odyssey 2018 will solve the problem within the next couple of weeks, and if not, immediately take the necessary steps to implement the one case per wardship system.
- The group as a whole rated the proposal to “convene a multi-disciplinary workgroup to create uniform practices regarding filing, timelines, expectations and consolidation” as being an “effective” to “very effective” method to improve juvenile case processing.

Following this survey, it was decided that we would continue to monitor ETSD progress in implementing Odyssey 2018 and concurrently convene a smaller subcommittee to develop any rule or statutory changes necessary to allow a child to have one case number during each incident of wardship. That subcommittee recommends a process based on the filing of a post-jurisdiction petition. That option, described in more detail below, has been endorsed by the larger work group.

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<sup>1</sup> Lawyers have complained that the current system requires them to file the same document in multiple cases, makes it difficult to view all of the child's materials in preparation for hearings, and has contributed to legal confusion.

## II. Proposed Rule Changes.

The work group believes that once a judgment is entered following adjudication there isn't a clear process in the juvenile code for bringing forward new allegations. In most counties, new allegations are filed in a new petition. Two counties, Washington and Josephine, currently allow post-jurisdiction amended petitions. According to the juvenile code, a party may file an amended petition within a reasonable time before an adjudication on the petition, or "at any time" if directed by the court under ORS 419B.809(6) or ORS 419B.872. In the event a petition is amended post-jurisdiction and a new judgment entered, there are concerns about the status of the first petition and judgment. The common understanding of the word "amended" is that the underlying document is replaced by the amended version. However, rights and obligations flow from each judgment according to statutory timelines and have an impact later when the court makes a permanency determination. Concerns about this lack of clarity have led many of the committee members to the conclusion that the statutory process for amending is intended for only pre-jurisdiction issues.<sup>2</sup>

The work group has endorsed a process to require that post jurisdiction allegations be filed in a petition, with additional language added to the document title to distinguish it from an initial petition. Under the proposal, any petition filed during a child's wardship would include the following document title: "PETITION (Existing Wardship – Additional Allegations)".<sup>3</sup> They believe this process is most closely tailored to the legal progression of the case in which the first judgment of jurisdiction remains in effect while additional allegations are considered, and possibly added, to the jurisdictional bases. The proposal would also require the post-jurisdiction petition be numbered to help the court keep track of which petition came first, as

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<sup>2</sup> It's important to note there are two recent appellate decisions that recognize the court's authority to direct post-jurisdiction amendments. In *Dept. of Human Services v. M.J.H.*, the Court of Appeals held that a juvenile court decision changing the children's plan to adoption must be reversed when the juvenile court had set a "return to parent" plan for the child based on a second petition. [278 Or App 607, 375 P3d 579 \(2016\)](#). The court, analyzing several juvenile code provisions, reasoned that the code contemplates there will be only one case, and one permanency plan, per child. The court relied on ORS 419B.809(6) for the proposition that the petition could be amended "at any time". More recently, the Supreme Court considered whether the juvenile court must find that it is in the child's best interest to vacate a guardianship when a parent files a motion to terminate wardship. Responding to arguments in favor of a best interest finding, the court cited the juvenile court's authority in ORS 419B.809(6) to direct amendment of the petition even after the guardianship has been established if there are remaining concerns about the parent's safety. *Dept. of Human Services v. J.C.*, [365 Or 223, 444 P3d 1098 \(2019\)](#).

<sup>3</sup> ORS 419B.809(8) requires a petition to be in substantial conformance with the statutory format, which includes a document title of "PETITION". This proposal would add to that requirement by adding words describing subsequent petitions, when there are more than one involving the same child during one incident of wardship.

well as previously established allegations to keep a running list of the established and alleged allegations in one place. Currently, they can be scattered over several case numbers, causing confusion and sometimes, legal mistakes. Similarly, jurisdictional judgments after the initial judgment would be numbered and would include all existing jurisdictional bases. This will allow the court and lawyers to have one judgment to refer back to when considering issues at a review or permanency hearing.

There may be questions about whether the proposed rule regarding post-jurisdiction petitions is within the scope of the court's rule making authority under ORS 1.002. Under that statute, rulemaking must be consistent with "applicable provisions of law and the Oregon Rules of Civil Procedure". As discussed above, there is a lot of confusion and doubt at the trial court level about whether pleadings can be amended to include new allegations post-jurisdiction under ORS 419B.809(6) and ORS 419B.472. This proposal does not address that issue head on (and, notably, does not *prevent* the filing of amended petitions); rather, it prescribes a process for proceeding when there is a new allegation under ORS 419B.100. Amendments would continue to be allowed for any other purpose.

Finally, the work group considered and rejected the idea of using a supplemental petition and a supplemental judgment. Although these terms are used in other legal contexts, they do not apply to juvenile cases.<sup>4</sup> Using numbering without the word "supplemental" keeps the proposal from conflicting (or, at least, perhaps appearing to conflict) with Oregon statutes.

### III. Planning for Implementation & Next Steps

We will begin planning for adoption of an out-of-cycle rule amendment. We have been invited to present the proposal to the UTCR Committee in the Spring to get their feedback. This will serve to better inform us about any deficiencies in the proposal, help us educate the committee, and make any necessary adjustments before the rule goes into effect.

We will need some time to convene a business process work group that includes representatives from ETSD, BFS, OGC, and trial court staff and supervisors to develop and test new business processes. The goal is to have this work done, have staff trained statewide, and have the systems in place for a August 1, 2020 implementation date.

In addition, our subcommittee remains interested in developing amendments to the juvenile code to create additional clarity around these issues. The specific items they would like to resolve include:

- (1) whether post-jurisdiction amendments are allowed;

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<sup>4</sup> There is no provision for a supplemental petition in the juvenile code. Although the Oregon Rules of Civil Procedure provide for supplemental petitions, these rules do not apply to dependency proceedings. ORS 419B.800. Also, juvenile cases are exempt from the supplemental judgment labeling requirement in ORS Chapter 18. ORS 18.038(2)(c).



(2) whether the court can hold over allegations not decided in a first judgment and decide them in a second judgment;

(3) procedures to follow regarding potential re-litigation of old bases of jurisdiction when the court is holding a hearing on new petition allegations; and,

(4) a review of the venue statutes to ensure they are consistent with the one case number per wardship event system.

Based on the discussions we have had so far regarding these issues, there is not agreement on substantive revisions. There is, however, a lot of interest at the subcommittee level in continuing to discuss these issues and to bring forward legislative amendments at a future date.