

Reasonable Efforts for Incarcerated Parents



WHAT SHOULD THE COURT REQUIRE?

SENIOR JUDGE DAN MURPHY

HON. MEGAN JACQUOT, COOS COUNTY

HON. HEIDI STRAUCH, MARION COUNTY

HON. LINDA HUGHES, MULTOMAH COUNTY

MEGAN HASSEN, JFCPD

ALEX SALAS, DHS

NICHOLE BROWN, DOC

Legal Analysis



RIGHT TO PARTICIPATE
REASONABLE EFFORTS
AGGRAVATED CIRCUMSTANCES
SUFFICIENT PROGRESS
REASONABLE TIME
TERMINATION OF PARENTAL RIGHTS

Right to Participate



- The right to “participate in hearings” in ORS 419B.875(2)(c) includes the right to testify on the party’s own behalf.
 - The court reversed the juvenile court’s judgment changing the permanency plan from reunification when an incarcerated parent who wanted to participate was not able to be connected by telephone. *Dept. of Human Services v. D.J.*, 259 Or App 638 (2013).



Reasonable Efforts



- A parent's incarceration does not excuse DHS from making reasonable efforts. *Juvenile Dept. of Cook County v. Williams*, 204 Or App 496 (2006)
- Reasonable efforts are required for each parent, unless:
 - the court relieves DHS from making reasonable efforts. ORS 419B.340, or
 - The court changes the plan from reunification to something else during a permanency hearing.

What efforts are required?



- Determinations are fact specific.
- Considerations:
 - Has the caseworker:
 - ✦ Had regular contact with the parent?
 - ✦ Assessed parent's strengths and weaknesses?
 - ✦ Provided services that bear a rational relationship to the basis for jurisdiction, or explain why the service has not been provided.
 - If DHS is relying on services within the facility, the caseworker needs to assess whether they are sufficiently tailored to the basis of jurisdiction
 - When a parent argues that DHS has failed to make specific efforts, the court must consider the totality of the circumstances and weigh:
 - The burdens that the state would shoulder in providing services, versus
 - The benefit that might reasonably be expected to flow from that service. *Dept. of Human Services v. C.L.H.*, 283 Or App 313 (2017)

What efforts are required?



- ✦ Communicated with prison counselor and service providers about the parent's progress?
- ✦ Investigated whether some form of visitation can be arranged, or explained why visits are not appropriate?
- ✦ (if parent is willing to engage) Met the parent's efforts in kind if the parent would benefit from additional services that would materially contribute to the goal of ameliorating the jurisdictional basis. *Dept. of Human Services v. S.M.H.*, 283 Or App 295 (2017)
- ✦ Communicated the conditions of return to the parent and discussed how those conditions might be satisfied, even if the parent won't be available to have physical custody of the child. This may include exploring whether the parent will make a plan for someone else to care for the child while s/he is incarcerated. *Dept. of Human Services v. L.L.S.*, 290 Or App 132 (2018)

Excusing Reasonable Efforts



- The juvenile court may excuse DHS from making further reasonable efforts when it finds “aggravated circumstances” exist. ORS 419B.340(5)
- Incarceration, without more, is not in itself an aggravated circumstance. *Juvenile Dept. of Cook County v. Williams*, 204 Or App 496 (2006).

Aggravated Circumstances



- **Aggravated circumstances include:**
 - Parent has:
 - ✦ caused or attempted to cause the death of any child by abuse or neglect
 - ✦ caused serious bodily injury or subjected any child to rape, sodomy, sexual abuse, intentional starvation or torture
 - ✦ abandoned the ward
 - ✦ unlawfully caused the death of the other parent of the ward.
 - Parent has been convicted of certain crimes involving the child or another child of the parent
 - Parent's rights to another child have been terminated involuntarily.
- **Permanency hearing within 30 days. ORS 419B.340(5)-(7)**

Sufficient Progress



- The court can consider a parent's incarceration when determining whether he or she made sufficient progress. *Dept. of Human Services v. C.L.H.*, 283 Or App 313 (2017)
- The court can not change the child's permanency plan based on insufficient progress unless it also finds DHS made reasonable efforts.

Reasonable Time



- Before changing the plan to adoption, the court must determine whether the parent is participating in services that will make it possible for the child to return home within a reasonable time. ORS 419B.476(5); 419B.498(2)(b). *Dept. of Human Services v. S.J.M.*, 283 Or App 367 (2017), *rev allowed*.



Reasonable Time



- **Defined:**
 - A period of time that is reasonable given a child or ward's emotional and developmental needs and ability to form and maintain lasting attachments. ORS 419A.004(23)



Reasonable Time



- **The court may consider:**

- Whether the child's placement in substitute care would be unreasonably long given her age;
- The amount of time the child has already spent in foster care;
- The child's unique permanency needs;
- How long the parent would have to remain in services before the child can safely return home, and how such a delay will impair his or her best interests;
- Whether the parent suffers from drug or alcohol addiction, or that the parent has mental health issues that are too severe to alleviate within the foreseeable future; and
- The parent's participation and progress in services at the time of the permanency hearing.

Dept. of Human Services v. D.I.R., 285 Or App 60 (2017)

Termination of Parental Rights



- Incarceration is a “condition” that can be considered when determining a parent’s fitness under ORS 419B.504.
- Generalized testimony by DHS that a lack of permanency could result in emotional distress did not constitute detriment. Nor was there any evidence of unfitness based on father’s conduct *as a parent*. *Dept. of Human Services v. R.K.*, 271 Or App 83 (2015)



Kids Day Camp



SNAKE RIVER CORRECTIONAL INSTITUTION

2016

Practical Issues



**PARENTS APPEARING IN COURT
VISITS
SERVICES**

Parents Appearing in Court



- How to facilitate participation by an incarcerated parent:
 - Marion County approach (materials online)
 - Multnomah County approach
- Order to transport:
 - When is it appropriate?
- Court report:
 - Will the incarcerated parent have an opportunity to review in advance of the hearing?
- Video conferencing options

Scheduling Legal/Professional Calls



- Schedule in advance.
- Legal Calls - Call the facility main line for the scheduling point of contact.
- DHS Worker/Attorney Calls:
 - Men – Correctional Counselor
 - Women – Comprehensive Counselor +
 - ✦ Minimum Facility - Family Preservation Project assistance
 - ✦ Medium Facility – Family Advocate assistance

Visits



Rights of Children



Children of incarcerated parents have a right to speak with, see, and touch their parent when it is appropriate and safe.

*Children of Incarcerated
Parents Bill of Rights*

Implemented in Oregon under
SB 241 2017 Legislative Session



What Does Research Say?



Parent-child visitation is one of the most important elements to ensure the well-being of children when their parent is incarcerated.



(Child Protection Best Practices Bulletin)

Incarcerated Parents:



A New



Perspective

Despite challenges of incarceration, parents in custody are generally:

- Motivated to change.
- Practicing sobriety.
- Receiving care for mental and physical illness.
- Held accountable for prosocial behavior.
- Have stability of housing, food, and employment.

Technology



- Video Interactive Phone Calls
- Instant Messaging
- Email
- Phone Calls
- Tablets



Technology: Telmate and Access



The screenshot displays the Getting Out website's interface for the 'go' service. At the top, the 'gettingout' logo is on the left, and a navigation menu includes 'Make a Deposit', 'Schedule a Visit', 'Phone Calls & Messages', 'Help Center', 'About GettingOut', and 'Contact Us' with social media and search icons. The main banner features a hand holding a card, the 'go' logo with a deposit icon, and the text 'make instant, secure deposits'. Below the banner are three teal call-to-action boxes: 'MAKE A DEPOSIT' (Deposit funds into an Inmate's account instantly and securely), 'JOIN US ON SOCIAL MEDIA' (with Facebook, Pinterest, Twitter, and YouTube icons), and 'GET HELP' (Visit our Help Center for FAQ and video tutorials). Each box has a corresponding button at the bottom.

gettingout[®] Make a Deposit Schedule a Visit Phone Calls & Messages Help Center About GettingOut Contact Us

go make instant, secure deposits

MAKE A DEPOSIT
Deposit funds into an Inmate's account instantly and securely.
[Make a deposit](#)

JOIN US ON SOCIAL MEDIA

[Visit our help center](#)

GET HELP
Visit our Help Center for FAQ and video tutorials.
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Visitation



Types of Visits

- Traditional
- Event
- Enhanced

Visitation Rule: OAR 291-127



Standard Across Facilities

- Visitor eligibility requirements
- Visitor application process
- Point-based limits on # visits allowed per month
- Visitor security screening before entry
- Child-friendly environment
- Allowed physical contact
 - Brief kiss at beginning and end of visit
 - Hand holding
 - Holding children \leq 8 years
- Dress Code
- Restrictions on exchange of objects
- Responsibility for children supervision
- No firearms, explosives, alcohol, drugs, etc.
- Must consume or dispose vending machine items during visit
- Limit on amount of change/tokens in visitor's possession
- No loitering

Things That May Differ Between Facilities

- Visiting hours, length of visits, and place of visits (posted at each institution)
- Number of visiting days/week and which days
- Schedule visits in advance for AICs in special housing or on Death Row
- The number and types of enhanced visits available at each institution

In-Person Visitation



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Department of Corrections

Department ▾

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Information for Friends, Families, and Visitors

We've created this page for friends and family to provide easier access to the webpages

[Frequently Asked Questions](#)
See answers to your most frequently asked questions.

[DOC Intake & Assessment](#)
Offender intake and assessment for the Oregon Department of Corrections (DOC) takes place through this facility, except when determined to be inappropriate for safety and security



[Handbook for Families and Friends of Adults in Custody](#)
This booklet is intended to introduce you to the Oregon Department of Corrections, your loved one, and to have a basic idea of what the rules and regulations are.

[CURE support group and DOC Orientation](#)
Citizens United for Rehabilitation of Errants (CURE) provides support and advocacy for individuals who absolutely must be incarcerated and that those who are in custody are advocating for effective criminal justice policies, procedures, and programs.

[Visiting](#)
DOC encourages positive relationships between adults in custody and their families and friends. If you were visiting an incarcerated adult in the county jail, you must apply for visiting privilege

[Mail](#)
Mail from friends and family to adults in custody is important both to the incarcerated adult

DOC website/Friends, Family & Visitors or

<https://www.oregon.gov/doc/Pages/Information-for-friends-and-family.aspx>

Find Offender Information: Oregon Offender Search



The screenshot shows the Oregon Department of Corrections website. At the top left is the Oregon state logo with the text "OREGON.GOV". Below it is a dark purple header with "Department of Corrections" in white. A left-hand navigation menu lists various links, with "Find Offender Information" circled in red. The main content area features a "Visitation Customer Service Survey" announcement, including text about the survey and a "2 of 3" page indicator. At the bottom right of the main content area is a dark purple bar with "About DOC" in white. Below this bar is a section titled "The Bigger Picture" with links to "Organizational Chart", "Oregon Accountability Model", and "Correctional Case Management (CCM)".

OREGON.GOV

Department of Corrections

Department

DOC Home Page

Contact Us

Friends, Family & Visitors

Find Offender Information

State Sex Offender Inquiry System

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Visitation Customer Service Survey

We want you to have positive relations with your loved ones and we know we want to hear from you!

We have posted a short anonymous Visiting Customer Service Survey. All your experiences and what we learn will help us improve visitation.

[English](#) and [Spanish](#) versions of the survey are available.

Please take advantage of this survey and tell us about your visiting.

Survey is available until July 15, 2018.

< || > 2 of 3

About DOC

The Bigger Picture

[Organizational Chart](#)

[Oregon Accountability Model](#)

[Correctional Case Management \(CCM\)](#)

DOC website/Find Offender Information or
<http://docpub.state.or.us/OOS/intro.jsf>

Enhanced Visiting Information - DOC Facebook



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Government Organization in Salem, Oregon
3.2 ★★★★★
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Programming: Intake Assessment



- Adults in custody receive two assessment scores (risk and criminogenic needs) that help determine their custody level and correctional case plan.
- Programming and resources are made available in accordance with a person's risk levels—low, medium, or high.



Programming: The Role of Counselors



- Counselors as change agents
- First point of contact except for non-DHS legal and professional calls/contacts.
- Caseloads and programming availability based on risk and criminogenic level of need.



Programming: Parenting Inside Out (PIO)



A program of the Pathfinders Network, PIO focuses on:

- Healthy adult relationships,
- Co-parenting,
- Problem solving,
- Non-violent discipline,
- Positive reinforcement, and
- Monitoring



Additional Programs



- Family First - OSCI/OSP
- Families Aiding In Rehabilitation - TRCI
- Family Preservation Project -CCCCF
- Pregnancy and Post-Partum Support
- Dads For Life Camp - SRCI
- Others



Other Programming Options:



- Education;
- Residential treatment (last 6 months);
- Religious Services;
- Reentry Curricula & Pre-Release Contact;
- Mental, Physical, and Chronic Disease Health Care;
- Case-Management;
- Work;
- Incentive Activities

Family Advocate for Mothers



- Family Advocacy Services for DHS-Involved AICs
 - Participation in hearings
 - Facilitated calls to caseworker, attorney, child therapist, Citizen Review Board
- Family Engagement Services
 - Researching contact orders
 - Resolving communication and visitation barriers
- Family Support Services
 - Participation in caregiver planning
 - Family Resources
 - Arrange video visits for DHS



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Programs for Specific Inmates



Talk to the Adult in Custody and the Correctional Counselor for more detailed information on what opportunities are available at each location.



Contact Information:



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