

REMOVALS, PROTECTIVE CUSTODY ORDERS, & SHELTER HEARINGS

JCIP MODEL COURT SUMMIT ON CHILD ABUSE &
NEGLECT, AUGUST 13, 2019

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PRE-REMOVAL PROCESSES

REPORTING CHILD ABUSE, ORS 419B.007 – 419B.020

- ORS 419B.007:
 - The Legislative Assembly finds that for the purpose of facilitating the use of protective social services to prevent further abuse, safeguard and enhance the welfare of abused children, and preserve family life when consistent with the protection of the child by stabilizing the family and improving parental capacity, it is necessary and in the public interest to require mandatory reports and investigations of abuse of children and to encourage voluntary reports.



2018 CHILD WELFARE DATA BOOK

- Total child abuse/neglect reports:
 - During FFY 2018, Child Welfare received 84,233 reports of child abuse, an increase of 4.4 percent from the prior year.
 - During FFY 2018, public and private officials required by law to report suspected child abuse made up 79.8 percent of the reports of abuse received by Child Welfare. Of all reports, 38.7 percent came from schools and law enforcement agencies.
 - Of the 84,233 reports of abuse received, 43,317 were assigned for CPS assessment.



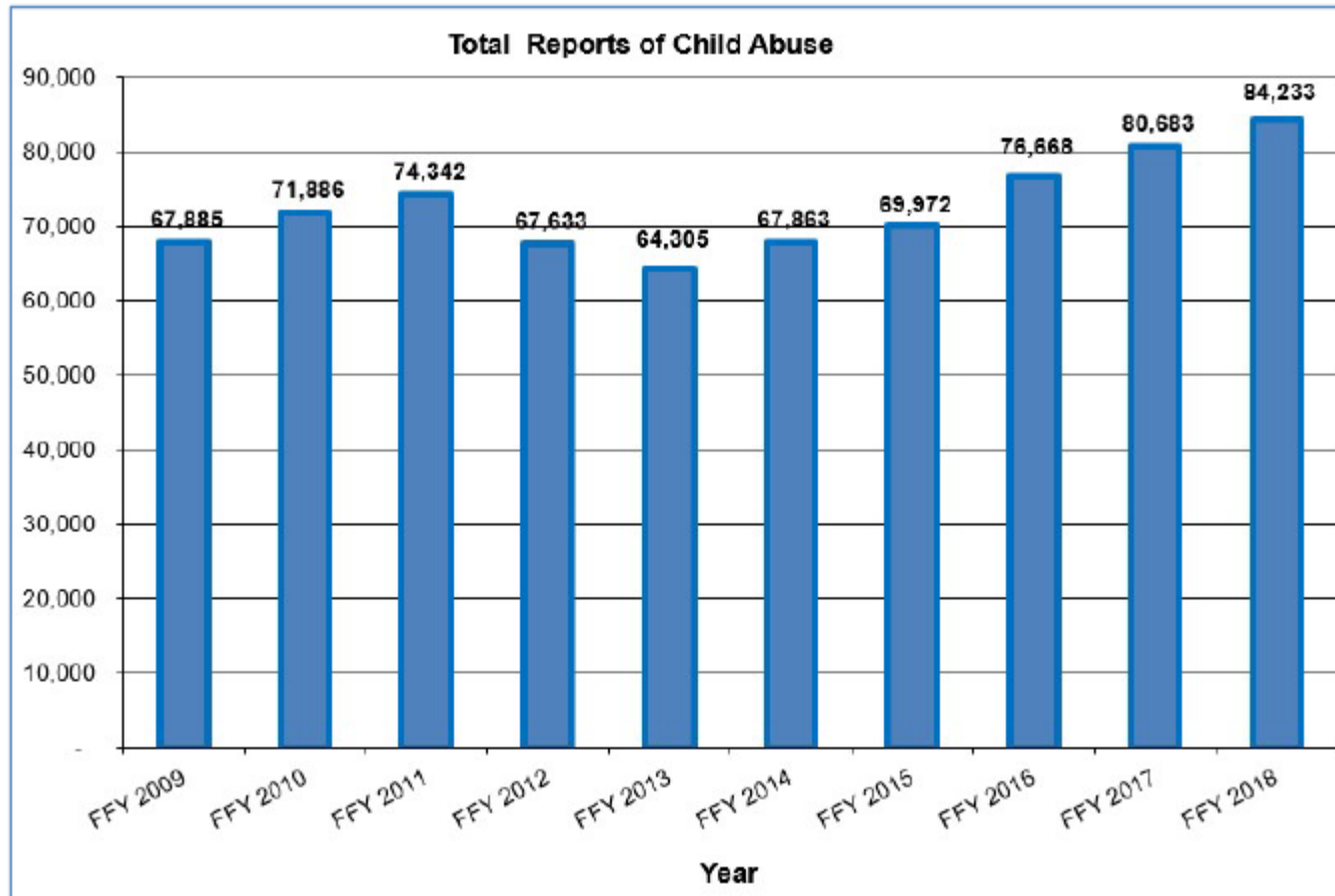
REPORTS OF CHILD ABUSE/NEGLECT*

○ Other mandated	31.1%
○ School	21.9%
○ Police	16.8%
○ Other non-mandated	14.4%
○ Medical	10%
○ Parent/Self	5.8%

*2018 Child Welfare Data Book



FFY 2018 REPORTS ASSIGNED FOR CPS ASSESSMENT (2018 CHILD WELFARE DATA BOOK)



SCREENING

- **OAR 413-015-0200, Purpose of Screening Rules**
 - OAR 413-015-0200 to 413-015-0225 describe how Child Welfare handles and documents information received by the Oregon Child Abuse Hotline and outline the criteria used to determine a response to the information. This process is known as screening and is conducted by a screener.



DETERMINATION OF DEPARTMENT RESPONSE

- 1. CPS Assessment Required

or

- 2. Close at Screening



CPS ASSESSMENTS

- OAR 413-015-0400 to 413-015-0485 describe the activities required to sufficiently complete a *CPS assessment*.



CPS ASSESSMENT ACTIVITIES, OAR 413-015-0415

- Determine whether abuse occurred
- Review Records
- Address any previous allegations not assessed because Child Welfare could not locate family
- Contact collateral sources
- Consult with CPS supervisor
- Contact & work with other entities (Office of Vocational Rehabilitation, Animal Control, etc.)
- Obtain interpreters & translation



CPS ASSESSMENT ACTIVITIES, CONTINUED

- Determine refugee status & comply with Refugee Children Act
- Take photographs
- Obtain medical assessment
- Obtain psychological and psychiatric evaluations
- When a child or young adult in substitute care is missing, make efforts to locate
- Develop plan of care
- Make monthly face-to-face contact



DETERMINE IF THERE IS A PRESENT DANGER SAFETY THREAT OR IMPENDING DANGER SAFETY THREAT, OAR 413-015-0425

- **Present Danger Safety Threat:**
 - To determine there is a *present danger safety threat*, the CPS worker must conclude the danger is immediate, significant, and clearly observable
- **Impending Danger Safety Threat:**
 - When the CPS worker concludes all the criteria apply to the family behaviors, conditions, or circumstances, an *impending danger safety threat* is present.



IMPENDING DANGER SAFETY THREAT “SOOVI” ANALYSIS

- **Severity, *See* OAR 413-015-0425 (e),**
- **Observable, *See* OAR 413-015-0425 (b),**
- **Out-of-control, *See* OAR 413-015-0425 (d),**
- **Vulnerable child, *See* OAR 413-015-0425 (c), AND**
- **Imminent, *See* OAR 413-015-0425 (a).**



MANAGING THE THREAT

- Protective Action Plan
 - Initial Safety Plan
 - Ongoing Safety Plan
-
- **OAR 413-015-0425 (3)**



WHAT HAPPENS PRIOR TO FILING?

- DHS supervisor consultation
- Safety threat identification
- Reasonable/Active Efforts to prevent or eliminate the need for removal
- Identify all persons with a legal relationship to the child
- ICWA inquiry, OAR 413-115-0040
- Search for relatives, OAR 413-070-0060 to 413-070-0087
- Document all efforts in Protective Custody Report





FILING DECISIONS

Protective Custody Without a Court Order

HB 2849 – WHO MAY TAKE A CHILD INTO PROTECTIVE CUSTODY?

- A police officer, as defined in ORS 420.905
- A juvenile counselor
- An employee of the Department of Human Services



HB 2849 – PROTECTIVE CUSTODY WITHOUT A COURT ORDER

- Imminent threat of severe harm to the child,
- Child poses an imminent threat of severe harm to self or others; **OR**
- Imminent threat child's parent/guardian will cause child to be beyond the reach of the juvenile court before the court can order protective custody.



HB 2849 – PROTECTIVE CUSTODY OF INDIAN CHILDREN WITHOUT AN ORDER

- If there is reason to know the child is an Indian child, the child may be taken into protective custody without a court order only when it is necessary to prevent imminent physical damage or harm to the child.



25 U.S.C. § 1922 – EMERGENCY REMOVAL OF INDIAN CHILDREN

- Court must make a finding on the record that emergency removal or placement is necessary to prevent imminent physical damage or harm.
- Emergency removal or placement must immediately terminate when no longer necessary to prevent imminent physical damage or harm to the child.
- May not last more than 30 days, unless the court makes a renewed finding regarding imminent physical damage or harm.
- Emergency proceedings can be terminated by:
 - Initiation of a child-custody proceeding subject to ICWA,
 - Transfer of the child to the jurisdiction of the appropriate Indian Tribe, or
 - Restoring the child to the parent or Indian custodian.





FILING DECISIONS, CONTINUED

Protective Custody With a Court Order

PROTECTIVE CUSTODY WITH A COURT ORDER – DECLARATION

- A person authorized to take a child into protective custody (PC) shall apply for a PC order by submitting to the juvenile court a declaration based on information and belief that sets forth with particularity:
 - Why PC is necessary & least restrictive means, **and**
 - Why protective custody is in the best interests of the child.



WHY PROTECTIVE CUSTODY IS NECESSARY AND LEAST RESTRICTIVE MEANS AVAILABLE TO:

- Protect child from abuse,
- Prevent the child from inflicting harm on self or others,
- Ensure child remains within reach of juvenile court to protect child from abuse or prevent child from inflicting harm on self or others, **OR**
- If Departments knows/has reason to know child is an Indian child, to prevent imminent physical damage or harm.



PROTECTIVE CUSTODY WITH A COURT ORDER – ORAL STATEMENT

- At an applicant's request, instead of a declaration, the judge may take an oral statement under oath.
- The application shall record the oral statement and retain a copy of the recording.
- The recording constitutes a declaration.



PROTECTIVE CUSTODY ORDER

- The court may order that a child be taken into protective custody if, after reviewing the declaration, the court determines:
 - Protective custody is necessary and the least restrictive means available

AND

- Protective custody is in the best interests of the child



Protective custody is necessary and the least restrictive means available to:

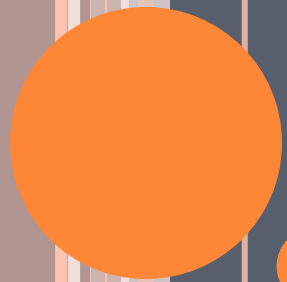
- Protect child from abuse,
- Prevent the child from inflicting harm on self or others,
- Ensure child remains within reach of juvenile court to protect child from abuse or prevent child from inflicting harm on self or others,
- Ensure the safety of a child who has run away from home, **OR**
- If Department knows/has reason to know child is an Indian child, to prevent imminent physical damage or harm.



WHEN THE COURT ISSUES A PROTECTIVE CUSTODY ORDER:

- The court may transmit the signed order to the applicant by electronic communication approved by the court that delivers a complete printable image.
- The court shall file the original order in the court record.





SHELTER HEARINGS

SHELTER HEARING INVOLVING EMERGENCY REMOVAL/PLACEMENT OF AN INDIAN CHILD

- Emergency removal/placement of an Indian child must terminate immediately when no longer necessary to prevent imminent physical damage or harm.



SHELTER HEARING INVOLVING EMERGENCY REMOVAL/PLACEMENT OF AN INDIAN CHILD

- The court must:
 - Make a finding on the record that emergency removal/placement is necessary to prevent imminent physical damage or harm (IPDH).
 - Promptly hold a hearing on whether removal continues to be necessary whenever new information indicates the emergency has ended.
 - At any hearing, determine whether removal is no longer necessary to prevent IPDH.
 - Immediately terminate (or ensure agency terminates) emergency proceeding once court possesses sufficient evidence to determine emergency removal/placement is no longer necessary to prevent IPDH.



OSB ATTORNEY STANDARDS

- **OSB Standards of Practice for Attorneys Representing the Child Welfare Agency**
https://www.osbar.org/_docs/resources/juveniletasksforce/JTFR1.pdf
- **OSB Specific Standards for Representation in Juvenile Dependency Cases (Lawyers for Children and Parents)**
https://www.osbar.org/_docs/resources/juveniletasksforce/JTFR1.pdf



RESOURCES

- **Oregon Administrative Rules**
 - **Screening:** OAR 413-015-0200 to 413-015-0225
 - **CPS:** OAR 413-015-0100 to 413-015-1230
- **DHS Procedure Manual:**
http://www.dhs.state.or.us/caf/safety_model/procedure_manual/Child-Welfare-Procedure-Manual-2019-v8.pdf
- **2018 Child Welfare Data Book:**
<https://www.oregon.gov/DHS/CHILDREN/CHILD-ABUSE/Documents/2018-Child-Welfare-Data-Book.pdf>



RESOURCES, CONTINUED

- **BIA ICWA**, <https://www.bia.gov/bia/ois/dhs/icwa>
- **Bureau of Indian Affairs ICWA Regulations, 25 C.F.R. 23**
<https://www.bia.gov/sites/bia.gov/files/assets/bia/ois/pdf/idc1-034238.pdf>
- **Guidelines for Implementing the Indian Child Welfare Act, December 2016**
<https://www.bia.gov/sites/bia.gov/files/assets/bia/ois/pdf/idc2-056831.pdf>
- **Native American Rights Fund ICWA Guide**
<https://www.narf.org/nill/documents/icwa/>
- **NICWA**, <https://www.nicwa.org/>



RESOURCES, CONTINUED

- **OSB Standards of Practice for Attorneys Representing the Child Welfare Agency**
https://www.osbar.org/_docs/resources/juveniletasksforce/JTFR1.pdf
- **OSB Specific Standards for Representation in Juvenile Dependency Cases (Lawyers for Children and Parents)**
https://www.osbar.org/_docs/resources/juveniletasksforce/JTFR1.pdf
- **Juvenile Court Dependency Benchbook**
<https://web.courts.oregon.gov/JuvenileBenchBook.nsf?OpenDatabase>



Enrolled
House Bill 2849

Sponsored by Representative SANCHEZ, Senator GELSER, Representative NOBLE; Representatives BYNUM, DRAZAN, HELT, LIVELY, SOLLMAN, STARK, WILLIAMS

CHAPTER

AN ACT

Relating to protective custody of children; creating new provisions; and amending ORS 418.937, 419B.021, 419B.023, 419B.055, 419B.100, 419B.121, 419B.150, 419B.185 and 419C.156.

Be It Enacted by the People of the State of Oregon:

SECTION 1. Section 2 of this 2019 Act is added to and made a part of ORS chapter 419B.

SECTION 2. (1) If it reasonably appears that a child is a runaway, the child may be taken into protective custody by a peace officer, counselor, employee of the Department of Human Services or any other person authorized by the juvenile court of the county in which the child is found.

(2) When a child is taken into protective custody as a runaway under subsection (1) of this section, the peace officer or other person who takes the child into custody:

(a)(A) Shall release the child without unnecessary delay to the custody of the child's parent or guardian or to a shelter facility that has agreed to provide care and services to runaway children and that has been designated by the juvenile court to provide such care and services; or

(B) Shall follow the procedures described in ORS 419B.160, 419B.165, 419B.168 and 419B.171;

(b) Shall, if possible, determine the preferences of the child and the child's parent or guardian as to whether the best interests of the child are better served by placement in a shelter facility that has agreed to provide care and services to runaway children and that has been designated by the juvenile court to provide such care and services or by release to the child's parent or guardian; and

(c) Notwithstanding ORS 419B.165 and subsection (1) of this section, shall release the child to a shelter facility that has agreed to provide care and services to runaway children and that has been designated by the juvenile court to provide such care and services if it reasonably appears that the child would not willingly remain at home if released to the child's parent or guardian.

SECTION 2a. If Senate Bill 924 becomes law, section 2 of this 2019 Act is amended to read:

Sec. 2. (1) If it reasonably appears that a child is a runaway, the child may be taken into protective custody by a peace officer, counselor, employee of the Department of Human Services or any other person authorized by the juvenile court of the county in which the child is found.

(2) When a child is taken into protective custody as a runaway under subsection (1) of this section, the peace officer or other person who takes the child into custody:

(a)(A) Shall release the child without unnecessary delay to the custody of the child's parent or guardian or to a shelter care facility that has agreed to provide care and services to runaway children and that has been designated by the juvenile court to provide such care and services; or

(B) Shall follow the procedures described in ORS 419B.160, 419B.165, 419B.168 and 419B.171;

(b) Shall, if possible, determine the preferences of the child and the child's parent or guardian as to whether the best interests of the child are better served by placement in a shelter care facility that has agreed to provide care and services to runaway children and that has been designated by the juvenile court to provide such care and services or by release to the child's parent or guardian; and

(c) Notwithstanding ORS 419B.165 and subsection (1) of this section, shall release the child to a shelter care facility that has agreed to provide care and services to runaway children and that has been designated by the juvenile court to provide such care and services if it reasonably appears that the child would not willingly remain at home if released to the child's parent or guardian.

SECTION 3. ORS 419B.150 is amended to read:

419B.150. *[(1) A child may be taken into protective custody by a peace officer, counselor, employee of the Department of Human Services or any other person authorized by the juvenile court of the county in which the child is found, in the following circumstances:]*

[(a) When the child's condition or surroundings reasonably appear to be such as to jeopardize the child's welfare;]

[(b) When the juvenile court, by order indorsed on the summons as provided in ORS 419B.839 or otherwise, has ordered that the child be taken into protective custody; or]

[(c) When it reasonably appears that the child has run away from home.]

[(2)(a) Before issuing an order under subsection (1)(b) of this section, the court shall review an affidavit sworn on information and belief provided by a peace officer, counselor or employee of the department or other person authorized by the juvenile court that sets forth with particularity the facts and circumstances on which the request for protective custody is based, why protective custody is in the best interests of the child and the reasonable efforts or, if the Indian Child Welfare Act applies, active efforts made by the department to eliminate the need for protective custody of the child.]

[(b) Except as provided in paragraph (c) of this subsection, an order directing that a child be taken into protective custody under subsection (1) of this section shall contain written findings, including a brief description of the reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to eliminate the need for protective custody of the child that the department has made and why protective custody is in the best interests of the child.]

[(c) The court may issue an order even though no services have been provided if the court makes written findings that no existing services could eliminate the need for protective custody of the child and that protective custody is in the best interests of the child.]

[(3) When a child is taken into protective custody as a runaway under subsection (1) of this section, the peace officer or other person who takes the child into custody:]

[(a)(A) Shall release the child without unnecessary delay to the custody of the child's parent or guardian or to a shelter facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services; or]

[(B) Shall follow the procedures described in ORS 419B.160, 419B.165, 419B.168 and 419B.171;]

[(b) Shall, if possible, determine the preferences of the child and the child's parent or guardian as to whether the best interests of the child are better served by placement in a shelter facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services or by release to the child's parent or guardian; and]

[(c) Notwithstanding ORS 419B.165 and subsection (1) of this section, shall release the child to a shelter facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services if it reasonably

appears that the child would not willingly remain at home if released to the child's parent or guardian.]

(1) As used in this section:

(a) "Abuse" has the meaning given that term in ORS 419B.005.

(b) "Reasonable cause" means a subjectively and objectively reasonable belief, given all of the circumstances and based on specific and articulable facts.

(c) "Severe harm" means:

(A) Life-threatening damage; or

(B) Significant or acute injury to a person's physical, sexual or psychological functioning.

(2) The following persons are authorized to take a child into protective custody under this section:

(a) A peace officer, as defined in ORS 420.905;

(b) A counselor; or

(c) An employee of the Department of Human Services.

(3)(a) Except as provided in paragraph (b) of this subsection, a child may be taken into protective custody without a court order only when there is reasonable cause to believe that:

(A) There is an imminent threat of severe harm to the child;

(B) The child poses an imminent threat of severe harm to self or others;

(C) There is an imminent threat that the child's parent or guardian will cause the child to be beyond the reach of the juvenile court before the department can complete assessment of an abuse allegation involving the child; or

(D) There is an imminent threat that the child's parent or guardian will cause the child to be beyond the reach of the juvenile court before the court can order that the child be taken into protective custody under subsection (6) of this section.

(b) If there is reason to know that the child is an Indian child, the child may be taken into protective custody without a court order only when it is necessary to prevent imminent physical damage or harm to the child.

(4) A person authorized to take a child into protective custody shall apply for a protective custody order, as described in subsection (6) of this section, by submitting a declaration based on information and belief that sets forth with particularity:

(a) Why protective custody is necessary and the least restrictive means available to:

(A) Protect the child from abuse;

(B) Prevent the child from inflicting harm on self or others;

(C) Ensure that the child remains within the reach of the juvenile court to protect the child from abuse or to prevent the child from inflicting harm on self or others; or

(D) If the department knows or has reason to know that the child is an Indian child, prevent imminent physical damage or harm to the child.

(b) Why protective custody is in the best interests of the child.

(5)(a) The applicant under subsection (4) of this section shall deliver the declaration described in subsection (4) of this section to the juvenile court.

(b) At the applicant's request, instead of the declaration described in subsection (4) of this section, the judge may take an oral statement under oath. If the applicant makes the oral statement to the judge out of court, the applicant shall record the oral statement and retain a copy of the recording. The recording constitutes a declaration for the purposes of subsection (4) of this section.

(6) The juvenile court may order that a child be taken into protective custody if, after reviewing the declaration described in subsection (4) of this section, the court determines that:

(a) Protective custody is necessary and the least restrictive means available to:

(A) Protect the child from abuse;

(B) Prevent the child from inflicting harm on self or others;

(C) Ensure that the child remains within the reach of the juvenile court to protect the child from abuse or prevent the child from inflicting harm on self or others;

(D) Ensure the safety of a child who has run away from home; or

(E) If the department knows or has reason to know that the child is an Indian child, prevent imminent physical damage or harm to the child; and

(b) Protective custody is in the best interests of the child.

(7) When the court issues a protective custody order under subsection (6) of this section, the court may transmit the signed order to the applicant by a form of electronic communication approved by the court that delivers a complete printable image of the signed order. The court shall file the original order in the court record.

SECTION 3a. If Senate Bill 924 becomes law, section 3 of this 2019 Act (amending ORS 419B.150) is repealed and ORS 419B.150, as amended by section 8, chapter 382, Oregon Laws 2019 (Enrolled Senate Bill 924), is amended to read:

419B.150. *[(1) A child may be taken into protective custody by a peace officer, counselor, employee of the Department of Human Services or any other person authorized by the juvenile court of the county in which the child is found, in the following circumstances:]*

[(a) When the child's condition or surroundings reasonably appear to be such as to jeopardize the child's welfare;]

[(b) When the juvenile court, by order indorsed on the summons as provided in ORS 419B.839 or otherwise, has ordered that the child be taken into protective custody; or]

[(c) When it reasonably appears that the child has run away from home.]

[(2)(a) Before issuing an order under subsection (1)(b) of this section, the court shall review an affidavit sworn on information and belief provided by a peace officer, counselor or employee of the department or other person authorized by the juvenile court that sets forth with particularity the facts and circumstances on which the request for protective custody is based, why protective custody is in the best interests of the child and the reasonable efforts or, if the Indian Child Welfare Act applies, active efforts made by the department to eliminate the need for protective custody of the child.]

[(b) Except as provided in paragraph (c) of this subsection, an order directing that a child be taken into protective custody under subsection (1) of this section shall contain written findings, including a brief description of the reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to eliminate the need for protective custody of the child that the department has made and why protective custody is in the best interests of the child.]

[(c) The court may issue an order even though no services have been provided if the court makes written findings that no existing services could eliminate the need for protective custody of the child and that protective custody is in the best interests of the child.]

[(3) When a child is taken into protective custody as a runaway under subsection (1) of this section, the peace officer or other person who takes the child into protective custody:]

[(a)(A) Shall release the child without unnecessary delay to the custody of the child's parent or guardian or to a shelter care facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services; or]

[(B) Shall follow the procedures described in ORS 419B.160, 419B.165, 419B.168 and 419B.171;]

[(b) Shall, if possible, determine the preferences of the child and the child's parent or guardian as to whether the best interests of the child are better served by placement in a shelter care facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services or by release to the child's parent or guardian; and]

[(c) Notwithstanding ORS 419B.165 and subsection (1) of this section, shall release the child to a shelter care facility that has agreed to provide care and services to children who have run away from home and that has been designated by the juvenile court to provide such care and services if it reasonably appears that the child would not willingly remain at home if released to the child's parent or guardian.]

- (1) As used in this section:
 - (a) "Abuse" has the meaning given that term in ORS 419B.005.
 - (b) "Reasonable cause" means a subjectively and objectively reasonable belief, given all of the circumstances and based on specific and articulable facts.
 - (c) "Severe harm" means:
 - (A) Life-threatening damage; or
 - (B) Significant or acute injury to a person's physical, sexual or psychological functioning.
- (2) The following persons are authorized to take a child into protective custody under this section:
 - (a) A peace officer, as defined in ORS 420.905;
 - (b) A counselor; or
 - (c) An employee of the Department of Human Services.
- (3)(a) Except as provided in paragraph (b) of this subsection, a child may be taken into protective custody without a court order only when there is reasonable cause to believe that:
 - (A) There is an imminent threat of severe harm to the child;
 - (B) The child poses an imminent threat of severe harm to self or others; or
 - (C) There is an imminent threat that the child's parent or guardian will cause the child to be beyond the reach of the juvenile court before the court can order that the child be taken into protective custody under subsection (6) of this section.
- (b) If there is reason to know that the child is an Indian child, the child may be taken into protective custody without a court order only when it is necessary to prevent imminent physical damage or harm to the child.
- (4) A person authorized to take a child into protective custody shall apply for a protective custody order, as described in subsection (6) of this section, by submitting a declaration based on information and belief that sets forth with particularity:
 - (a) Why protective custody is necessary and the least restrictive means available to:
 - (A) Protect the child from abuse;
 - (B) Prevent the child from inflicting harm on self or others;
 - (C) Ensure that the child remains within the reach of the juvenile court to protect the child from abuse or to prevent the child from inflicting harm on self or others; or
 - (D) If the department knows or has reason to know that the child is an Indian child, prevent imminent physical damage or harm to the child.
 - (b) Why protective custody is in the best interests of the child.
- (5)(a) The applicant under subsection (4) of this section shall deliver the declaration described in subsection (4) of this section to the juvenile court.
- (b) At the applicant's request, instead of the declaration described in subsection (4) of this section, the judge may take an oral statement under oath. If the applicant makes the oral statement to the judge out of court, the applicant shall record the oral statement and retain a copy of the recording. The recording constitutes a declaration for the purposes of subsection (4) of this section.
- (6) The juvenile court may order that a child be taken into protective custody if, after reviewing the declaration described in subsection (4) of this section, the court determines that:
 - (a) Protective custody is necessary and the least restrictive means available to:
 - (A) Protect the child from abuse;
 - (B) Prevent the child from inflicting harm on self or others;
 - (C) Ensure that the child remains within the reach of the juvenile court to protect the child from abuse or prevent the child from inflicting harm on self or others;
 - (D) Ensure the safety of a child who has run away from home; or
 - (E) If the department knows or has reason to know that the child is an Indian child, prevent imminent physical damage or harm to the child; and
 - (b) Protective custody is in the best interests of the child.

(7) When the court issues a protective custody order under subsection (6) of this section, the court may transmit the signed order to the applicant by a form of electronic communication approved by the court that delivers a complete printable image of the signed order. The court shall file the original order in the court record.

SECTION 4. ORS 418.937 is amended to read:

418.937. When making any placement decision involving a refugee child under ORS 419B.150, 419C.080 or 419C.088 or section 2 of this 2019 Act, the Department of Human Services and the juvenile court shall consider that child's culture and tradition. Unless shown to be inappropriate and inconsistent with the best interests of the child, the department and juvenile court shall place the child with the following in order of preference:

- (1) Natural parents.
- (2) Extended family members.
- (3) Members of the same cultural heritage.
- (4) Persons with knowledge and appreciation of the cultural heritage of the child.

SECTION 5. ORS 419B.023 is amended to read:

419B.023. (1) As used in this section:

(a) "Designated medical professional" means the person described in ORS 418.747 (9) or the person's designee.

(b) "Suspicious physical injury" includes, but is not limited to:

- (A) Burns or scalds;
- (B) Extensive bruising or abrasions on any part of the body;
- (C) Bruising, swelling or abrasions on the head, neck or face;
- (D) Fractures of any bone in a child under the age of three;
- (E) Multiple fractures in a child of any age;
- (F) Dislocations, soft tissue swelling or moderate to severe cuts;
- (G) Loss of the ability to walk or move normally according to the child's developmental ability;
- (H) Unconsciousness or difficulty maintaining consciousness;
- (I) Multiple injuries of different types;
- (J) Injuries causing serious or protracted disfigurement or loss or impairment of the function of any bodily organ; or

(K) Any other injury that threatens the physical well-being of the child.

(2)(a) If a person conducting an investigation under ORS 419B.020 observes a child who has suffered suspicious physical injury and the person is certain or has a reasonable suspicion that the injury is or may be the result of abuse, the person shall, in accordance with the protocols and procedures of the county multidisciplinary child abuse team described in ORS 418.747:

[(a)] (A) Immediately photograph or cause to have photographed the suspicious physical injuries in accordance with ORS 419B.028; and

[(b)] (B) Ensure that a designated medical professional conducts a medical assessment within 48 hours, or sooner if dictated by the child's medical needs.

(b) Notwithstanding ORS 419B.150, the person described in paragraph (a) of this subsection may take the child into protective custody, without a court order, only for the period of time necessary to ensure compliance with the requirements of this subsection.

(3) The requirement of subsection (2) of this section shall apply:

(a) Each time suspicious physical injury is observed by Department of Human Services or law enforcement personnel:

(A) During the investigation of a new allegation of abuse; or

(B) If the injury was not previously observed by a person conducting an investigation under ORS 419B.020; and

(b) Regardless of whether the child has previously been photographed or assessed during an investigation of an allegation of abuse.

(4)(a) Department or law enforcement personnel shall make a reasonable effort to locate a designated medical professional. If after reasonable efforts a designated medical professional is not

available to conduct a medical assessment within 48 hours, the child shall be evaluated by an available physician, a physician assistant licensed under ORS 677.505 to 677.525, naturopathic physician licensed under ORS chapter 685 or a nurse practitioner licensed under ORS 678.375 to 678.390.

(b) If the child is evaluated by a health care provider as defined in ORS 127.505 other than a designated medical professional, the health care provider shall make photographs, clinical notes, diagnostic and testing results and any other relevant materials available to the designated medical professional for consultation within 72 hours following evaluation of the child.

(c) The person conducting the medical assessment may consult with and obtain records from the child's health care provider under ORS 419B.050.

(5) Nothing in this section prevents a person conducting a child abuse investigation from seeking immediate medical treatment from a hospital emergency room or other medical provider for a child who is physically injured or otherwise in need of immediate medical care.

(6) If the child described in subsection (2) of this section is less than five years of age, the designated medical professional may, within 14 days, refer the child for a screening for early intervention services or early childhood special education, as those terms are defined in ORS 343.035. The referral may not indicate the child is subject to a child abuse investigation unless written consent is obtained from the child's parent authorizing such disclosure. If the child is already receiving those services, or is enrolled in the Head Start program, a person involved in the delivery of those services to the child shall be invited to participate in the county multidisciplinary child abuse team's review of the case and shall be provided with paid time to do so by the person's employer.

(7) Nothing in this section limits the rights provided to minors in ORS chapter 109 or the ability of a minor to refuse to consent to the medical assessment described in this section.

SECTION 6. ORS 419B.021 is amended to read:

419B.021. (1) Except as provided in subsection (2) of this section, the following persons must possess a bachelor's, master's or doctoral degree from an accredited institution of higher education:

(a) A person who conducts an investigation under ORS 419B.020; and

(b) A person who makes the following determinations:

(A) That a child must be taken into protective custody under ORS 419B.150 or **section 2 of this 2019 Act**; and

(B) That the child should not be released to the child's parent or other responsible person under ORS 419B.165 (2).

(2) Subsection (1) of this section does not apply to:

(a) A person who was employed or otherwise engaged by the Department of Human Services for the purpose of conducting investigations or making determinations before January 1, 2012, provided the person's employment or engagement for these purposes has been continuous and uninterrupted.

(b) A law enforcement official as that term is defined in ORS 147.005.

SECTION 6a. If House Bill 2033 becomes law, section 6 of this 2019 Act (amending ORS 419B.021) is repealed and ORS 419B.021, as amended by section 1, chapter 153, Oregon Laws 2019 (Enrolled House Bill 2033), is amended to read:

419B.021. (1) Except as provided in subsection (2) of this section, a person who conducts an investigation under ORS 419B.020, makes a determination that a child must be taken into protective custody under ORS 419B.150 or **section 2 of this 2019 Act** or makes a determination that a child should not be released to the child's parent or other responsible person under ORS 419B.165 (2) must have:

(a) At least a bachelor's degree in:

(A) Human services or a field related to human services; or

(B) A field other than one described in subparagraph (A) of this paragraph, if the Department of Human Services determines by rule that the coursework completed by the person is equivalent to a bachelor's degree in human services and that the person has sufficient training in providing human services; or

(b) An associate degree with additional training or additional certification in human services or a field related to human services, as determined by the department by rule.

(2) Subsection (1) of this section does not apply to a law enforcement official as defined in ORS 147.005.

SECTION 7. ORS 419B.055 is amended to read:

419B.055. (1) The Attorney General may bring an action in a circuit court for a citation or a stalking protective order under ORS 30.866 or 163.730 to 163.750 on behalf of an employee of the Department of Human Services who, because of being involved in the conduct described in subsection (3) of this section, is the subject of repeated and unwanted contact by another person that causes alarm or coercion to the employee. The Attorney General's responsibility under this subsection is limited to circumstances in which an employee of the department submits a written request to the Attorney General that:

(a) Has been approved in writing by the Director of Human Services or the director's designee;
(b) Sets forth sufficient facts and evidence, the truth of which has been affirmed by the employee; and

(c) Based solely upon the opinion of the Attorney General, is an action that is likely to succeed.

(2) The action brought under this section may not include a request for:

(a) Special and general damages, including damages for emotional distress;

(b) Economic or noneconomic damages;

(c) Punitive damages; or

(d) Attorney fees and costs.

(3) Departmental employees on whose behalf the citation or stalking protective order may be obtained under subsection (1) of this section include employees who:

(a) Conduct a child abuse investigation under ORS 419B.020;

(b) Make a determination that a child must be taken into protective custody under ORS 419B.150 or section 2 of this 2019 Act;

(c) Make a determination that a child should not be released to the child's parent or other responsible person under ORS 419B.165 (2); and

(d) Are involved in developing a case plan or making a placement decision for a child in the legal custody of the department.

SECTION 8. ORS 419B.100 is amended to read:

419B.100. (1) Except as otherwise provided in subsection (5) of this section and ORS 107.726, the juvenile court has exclusive original jurisdiction in any case involving a person who is under 18 years of age and:

(a) Who is beyond the control of the person's parents, guardian or other person having custody of the person;

(b) Whose behavior is such as to endanger the welfare of the person or of others;

(c) Whose condition or circumstances are such as to endanger the welfare of the person or of others;

(d) Who is dependent for care and support on a public or private child-caring agency that needs the services of the court in planning for the best interest of the person;

(e) Whose parents or any other person or persons having custody of the person have:

(A) Abandoned the person;

(B) Failed to provide the person with the care or education required by law;

(C) Subjected the person to cruelty, depravity or unexplained physical injury; or

(D) Failed to provide the person with the care, guidance and protection necessary for the physical, mental or emotional well-being of the person;

(f) Who *[has run away from the home of the person]* is a runaway;

(g) Who has filed a petition for emancipation pursuant to ORS 419B.550 to 419B.558; or

(h) Who is subject to an order entered under ORS 419C.411 (7)(a).

(2) The court shall have jurisdiction under subsection (1) of this section even though the child is receiving adequate care from the person having physical custody of the child.

(3) The provisions of subsection (1) of this section do not prevent a court of competent jurisdiction from entertaining a civil action or suit involving a child.

(4) The court does not have further jurisdiction as provided in subsection (1) of this section after a minor has been emancipated pursuant to ORS 419B.550 to 419B.558.

(5)(a) An Indian tribe has exclusive jurisdiction over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of the tribe, except where the jurisdiction is otherwise vested in the state by existing federal law.

(b) Upon the petition of either parent, the Indian custodian or the Indian child's tribe, the juvenile court, absent good cause to the contrary and absent objection by either parent, shall transfer a proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, to the jurisdiction of the tribe.

(c) The juvenile court shall give full faith and credit to the public acts, records and judicial proceedings of an Indian tribe applicable to an Indian child custody proceeding to the same extent that the juvenile court gives full faith and credit to the public acts, records and judicial proceedings of any other entity.

SECTION 9. ORS 419B.121 is amended to read:

419B.121. Notwithstanding ORS 419C.145, the court may order the detention of a child who resides in another state if the court finds probable cause to believe that the child [*has run away from home or from a placement*] is a runaway. If a child is ordered detained under this section, the court shall make such orders as are necessary to cause the child to be immediately returned to the child's state of residence.

SECTION 9a. If Senate Bill 924 becomes law, section 9 of this 2019 Act (amending ORS 419B.121) is repealed.

SECTION 10. ORS 419B.185 is amended to read:

419B.185. (1) When a child or ward is taken, or is about to be taken, into protective custody pursuant to ORS 419B.150, 419B.160, 419B.165, 419B.168 and 419B.171 or section 2 of this 2019 Act and placed in detention or shelter care, a parent, child or ward shall be given the opportunity to present evidence to the court at the hearings specified in ORS 419B.183, and at any subsequent review hearing, that the child or ward can be returned home without further danger of suffering physical injury or emotional harm, endangering or harming others, or not remaining within the reach of the court process prior to adjudication. At the hearing:

(a) The court shall make written findings as to whether the Department of Human Services has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child or ward from the home and to make it possible for the child or ward to safely return home. When the court finds that no services were provided but that reasonable services would not have eliminated the need for protective custody, the court shall consider the department to have made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for protective custody. The court shall include in the written findings a brief description of the preventive and reunification efforts made by the department.

(b) In determining whether a child or ward shall be removed or continued out of home, the court shall consider whether the provision of reasonable services can prevent or eliminate the need to separate the family.

(c) In determining whether the department has made reasonable efforts or, if the Indian Child Welfare Act applies, active efforts to prevent or eliminate the need for removal of the child or ward from the home and to make it possible for the child or ward to safely return home, the court shall consider the child or ward's health and safety the paramount concerns.

(d) The court shall make a written finding in every order of removal that describes why it is in the best interests of the child or ward that the child or ward be removed from the home or continued in care.

(e) When the court determines that a child or ward shall be removed from the home or continued in care, the court shall make written findings whether the department made diligent efforts pursuant to ORS 419B.192. The court shall include in its written findings a brief description of the efforts made by the department.

(f) The court shall determine whether the child or ward is an Indian child as defined in ORS 419A.004 or in the applicable State-Tribal Indian Child Welfare Agreement.

(g) The court may receive testimony, reports and other evidence without regard to whether the evidence is admissible under ORS 40.010 to 40.210 and 40.310 to 40.585 if the evidence is relevant to the determinations and findings required under this section. As used in this paragraph, "relevant evidence" has the meaning given that term in ORS 40.150.

(2) To aid the court in making the written findings required by subsection (1)(a), (d) and (e) of this section, the department shall present written documentation to the court outlining:

(a) The efforts made to prevent taking the child or ward into protective custody and to provide services to make it possible for the child or ward to safely return home;

(b) The efforts the department made pursuant to ORS 419B.192; and

(c) Why protective custody is in the best interests of the child or ward.

SECTION 11. ORS 419C.156 is amended to read:

419C.156. Notwithstanding ORS 419C.145 (1) and (2), the court may order the detention of a youth who resides in another state if the court makes written findings that there is probable cause to believe that the youth [*has run away from home or from a placement*] is a runaway and that describe why it is in the best interests of the youth to be placed in detention. If a youth is ordered detained under this section, the court shall make such orders as are necessary to cause the youth to be immediately returned to the youth's state of residence.

SECTION 11a. If Senate Bill 924 becomes law, section 11 of this 2019 Act (amending ORS 419C.156) is repealed.

Passed by House June 20, 2019

.....
Timothy G. Sekerak, Chief Clerk of House

.....
Tina Kotek, Speaker of House

Passed by Senate June 29, 2019

.....
Peter Courtney, President of Senate

Received by Governor:

.....M.,....., 2019

Approved:

.....M.,....., 2019

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2019

.....
Bev Clarno, Secretary of State

OSB Performance Standards Applied to Shelter Hearings

Parent's Attorneys	Children's Attorneys	Agency Attorneys
<p>1. Discovery: Obtain copies of all relevant documents including, but not limited to:</p> <ul style="list-style-type: none"> a. Shelter report; b. Police report(s); and c. Prior child welfare referrals. 	<p>1. Discovery: Obtain copies of all relevant documents including, but not limited to:</p> <ul style="list-style-type: none"> a. Shelter report; b. Police report(s); and c. Prior child welfare referrals. 	<p>1. Discovery:</p> <ul style="list-style-type: none"> a. Assist the agency in obtaining relevant case-related material and review documents and information gathered by the agency or filed in the case. b. Counsel the agency regarding discovery obligations.
<p>2. Parent client interview: If the parent client is present or available by phone, take time to talk to the parent client before the shelter hearing.</p> <p>Talk with the parent client about:</p> <ul style="list-style-type: none"> a. Purpose of the hearing; b. Risk of self-incrimination; c. Placement options if applicable; d. Safety service providers to prevent removal; and e. Visitation. <p>Ask for a recess or a continuance if necessary.</p>	<p>2. Child client interview: If the child client is present or available by phone, take time to talk with the child before the shelter hearing.</p> <p>Talk with the child client about:</p> <ul style="list-style-type: none"> a. Purpose of the hearing; b. Placement preference if applicable; c. Educational needs (identify home school); d. Visitation; and e. Child client's preferred outcome. <p>Ask for a recess or a continuance if necessary.</p>	<p>2. Counseling, Advice, & Court Preparation:</p> <ul style="list-style-type: none"> a. Counsel the agency in legal matters related to the individual case as well as general policy and practice issues. The attorney should be readily available to provide legal advice and counsel on actions and decisions that the agency must make prior to filing a petition. b. Consult with the agency regarding legal sufficiency of removal or other actions taken prior to court involvement. c. Prior to filing a petition, the attorney should review all available supporting documentation. d. The attorney should work with the agency to draft, review, and file the petition with the court. e. Ensure compliance with all notice and service requirements. Notice and service requirements will differ in cases in which The Hague Convention or the Indian Child Welfare Act apply. f. File timely, accurate, and thorough pleadings.

OSB Performance Standards Applied to Shelter Hearings

Parent's Attorneys	Children's Attorneys	Agency Attorneys
	<i>(Where appropriate, Counsel should assert the child client's Fifth Amendment and other constitutional rights.)</i>	
<p>3. If appropriate, assert the parent client's Fifth Amendment and other constitutional rights;</p>	<p>3. Assist the child client in exercising his or her right to an evidentiary hearing to require the Department of Human Services (hereinafter the "agency") to demonstrate to the court that the child client can be returned home without further danger of suffering physical injury or emotional harm, endangering or harming others, or not remaining within the reach of the court process before adjudication.</p>	<p>3. Assist the Agency in Preparing for Hearing:</p> <p>a. The attorney should counsel the agency to ensure the agency obtains all records that are necessary to prove the petition, or may be needed for later hearings.</p> <p>b. Counsel the agency regarding its discovery obligations to timely provide records to all parties.</p> <p>c. Review all records to assist the agency in evaluating the most appropriate case plan. Some of these records may not be in the agency's file. Obtaining these records may require assistance from the attorney, which may involve subpoenaing records or requesting court orders.</p>
<p>4. Assist the parent client in exercising his or her right to an evidentiary hearing to require the Department of Human Services (hereinafter the "agency") to demonstrate to the court that the child can be returned home without further danger of suffering physical injury or emotional harm, endangering or harming others, or not remaining within the reach of the court process before adjudication;</p>	<p>4. When appropriate, present facts and law regarding:</p> <p>a. Jurisdictional sufficiency of the petition;</p> <p>b. Appropriateness of venue;</p> <p>c. Applicability of Indian Child Welfare Act (ICWA);</p> <p>d. Applicability of Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA);</p> <p>e. Adequacy of notice provided to parties and tribes if applicable;</p> <p>f. Establishment of paternity;</p>	<p>3. Case Preparation and Presentation:</p> <p>a. The agency attorney must be prepared to move forward in a timely manner. The agency attorney should carefully consider all circumstances when requesting or responding to a motion for a continuance.</p> <p>b. Make all appropriate motions</p> <p>c. Present case-in-chief, call and cross-examine witnesses, prepare and offer exhibits</p> <p>d. Consult with the agency and the child's attorney to determine whether the child should</p>
<p>5. When appropriate, present facts and law regarding:</p> <p>a. Jurisdictional sufficiency of the petition;</p> <p>b. Appropriateness of venue;</p> <p>c. Applicability of the Indian Child Welfare Act (ICWA);</p> <p>d. Applicability of the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA);</p> <p>e. Adequacy of notice provided to parties and tribes if applicable;</p> <p>f. Establishment of paternity;</p>		

OSB Performance Standards Applied to Shelter Hearings

Parent's Attorneys	Children's Attorneys	Agency Attorneys
<p>g. Why continuation of the child in the home would be contrary to the child's welfare or why it is not in the best interest or welfare of the child to be removed;</p> <p>h. Whether reasonable or active efforts were made to prevent removal;</p> <p>i. Whether diligent efforts have been made to place the child with family;</p> <p>j. Maintaining the existing school unless it is in the best interest of the child to change schools; (Specific Standards for Representation in Juvenile Dependency Cases Page 109)</p> <p>k. Whether reasonable and available services can prevent or eliminate the need to separate the family;</p> <p>l. Whether the placement proposed by the agency is the least disruptive and most family-like setting that meets the needs of the child; and</p> <p>m. The possibility of placement with appropriate noncustodial parents and relatives and corresponding diligent-efforts requirement.</p>	<p>g. Why continuation of the child client in the home would be contrary to his or her welfare or why it is not in the best interest or welfare of the child client to be removed;</p> <p>h. Whether reasonable or active efforts were made to prevent removal;</p> <p>i. Whether diligent efforts have been made to place the child client with family;</p> <p>j. Maintaining the existing school unless it is in the best interest of the child client to change schools;</p> <p>k. Whether reasonable and available services can prevent or eliminate the need to separate the family; (Specific Standards for Representation in Juvenile Dependency Cases Page 101)</p> <p>l. Whether the placement proposed by the agency is the least disruptive and most family-like setting that meets the needs of the child client; and</p> <p>m. The possibility of placement with appropriate noncustodial parents and relatives and corresponding diligent-efforts requirement.</p>	<p>testify at a hearing.</p> <p>e. Prepare judgments and orders as necessary</p> <p>f. Review court orders and judgments to ensure accuracy and clarity.</p>
<p>6. If ICWA applies, consult with the parent client about transfer of the case to tribal court and take appropriate action.</p>	<p>5. If ICWA applies, consult with the child client about transferring the case to tribal court and take appropriate action.</p>	<p>5. If ICWA applies, consult with DHS to arrange QEW testimony and ensure ICWA compliance.</p>

OSB Performance Standards Applied to Shelter Hearings

Parent's Attorneys	Children's Attorneys	Agency Attorneys
<p>7. When appropriate, request temporary orders including, but not limited to:</p> <p>a. Temporary restraining orders, including orders expelling an allegedly abusive parent from the home;</p> <p>b. Orders governing future conduct of the parties (for example, not discussing allegations with the child, remaining clean and sober while the child is present, etc.);</p> <p>c. Orders for any services for parent client agreed-on before adjudication;</p> <p>d. Visitation orders that are reasonable and flexible and take into consideration the child's age and activities. Orders that specify the frequency and manner of visitation may be appropriate.</p> <p><i>See</i> ORS 419B.337(3) (the juvenile court may order that the agency provide a certain number of visits weekly and that the visits be supervised or unsupervised); and OAR 413-070-0830 (parents and children have the right to visit as often as reasonably necessary; insufficient agency resources are not justification for lack of visitation);</p> <p>e. Orders for child support. Be prepared to rebut the presumption—argue inability to pay and treatment costs are more valuable to the child. <i>See</i> ORS 25.245 and ORS 25.280;</p> <p>f. Orders for the agency to investigate relatives and friends of the family as potential</p>	<p>6. When appropriate, request temporary orders including, but not limited to:</p> <p>a. Temporary restraining orders, including orders expelling an allegedly abusive parent from the home;</p> <p>b. Orders governing future conduct of the parties (for example, not discussing allegations with the child client, remaining clean and sober while the child client is present, etc.);</p> <p>c. Visitation orders that are reasonable and flexible and take into consideration the child client's age and activities. Orders that specify the frequency and manner of visitation may be appropriate.</p> <p><i>See</i> ORS 419B.337(3) (the juvenile court may order that the agency provide a certain number of visits weekly and that the visits be supervised or unsupervised); and OAR 413-070-0830 (parents and children have the right to visit as often as reasonably necessary; insufficient agency resources are not justification for lack of visitation);</p> <p>d. Orders for child support;</p> <p>e. Orders for the agency to investigate relatives and friends of the family as potential placements or to place sibling groups together;</p> <p>f. Orders for the agency to provide appropriate treatment for the child client;</p> <p>g. Orders permitting return of the child client prior to the jurisdictional hearing; and</p>	<p>6. Post-Shelter Hearing:</p> <p>a. Take reasonable steps to ensure the agency understands their obligation to comply with court orders.</p> <p>b. Ensure any necessary posthearing motions are timely filed</p> <p>c. Actively participate in all settlement negotiations, pretrial conferences, and hearings to achieve speedy resolution of the case when appropriate.</p> <p>d. Communicate on a regular basis with the agency and case-related professionals</p> <p>e. Assist the agency in meeting legal obligations to adhere to state and federal case timelines.</p> <p>f. Make all appropriate motions and evidentiary objections.</p> <p>g. Request the opportunity to make opening and closing arguments when appropriate</p> <p>h. Prepare judgments and orders as necessary</p> <p>i. Review court orders and judgments to ensure accuracy and clarity.</p> <p>j. Consult with the agency and the child's attorney to determine whether the child should testify at a hearing.</p> <p>k. The attorney should make appropriate motions and evidentiary objections to advance the agency's position.</p> <p>o. If necessary, the attorney should file briefs, legal memoranda, or pleadings to support the agency's position.</p>

OSB Performance Standards Applied to Shelter Hearings

Parent's Attorneys	Children's Attorneys	Agency Attorneys
<p>placements or to place sibling groups together;</p> <p>g. Orders for the agency to provide appropriate treatment for the child;</p> <p>h. Orders permitting return of the child prior to the jurisdictional hearing; and</p> <p>i. Orders maintaining attendance at existing school.</p>	<p>h. Orders maintaining attendance at existing school.</p>	<p>p. The agency attorney should preserve legal issues for possible appeal.</p>
<p>8. Review the order with the parent client:</p> <p>a. Discuss reviewability of shelter order:</p> <ol style="list-style-type: none"> 1) Orders by referees can be reviewed by a sitting judge; 2) Right (and process) to appeal; and 3) Possibility of pursuing a writ of habeas corpus. <p>b. Review the consequences of not abiding by the order.</p>	<p>7. Review the order with the child client or, if appropriate, with the child client's care provider if the child client has diminished capacity:</p> <p>a. Discuss reviewability of shelter order:</p> <ol style="list-style-type: none"> 1) Orders by referees can be reviewed by a sitting judge; 2) Right (and process) to appeal; and 3) Possibility of pursuing a writ of habeas corpus. <p>b. Review the consequences of not abiding by the order.</p>	<p>7. Review orders with the agency.</p> <p>a. Upon receipt, the attorney must review every judgment and order to ensure it accurately reflects the court's findings and orders.</p> <p>b. The attorney should promptly review the court's orders and judgments with the agency. The attorney should counsel the agency regarding the court's orders and expectations of the agency.</p> <p>c. The attorney should provide advice on how to comply, and explain the ramifications of failing to comply.</p> <p>d. If the agency is dissatisfied with the outcome, the attorney should counsel on possible legal options (e.g., request a rehearing, file a motion for reconsideration).</p>
<p>9. Review the safety plan and the consequences for not following the order. If the court sets conditions of the child's placement, explain to the parent client, and</p>	<p><i>(If possible, review the safety plan with the child client or, if appropriate, with the child client's care provider if the child client has diminished capacity.</i></p>	

OSB Performance Standards Applied to Shelter Hearings

Parent's Attorneys	Children's Attorneys	Agency Attorneys
<p>any third party, the conditions and potential consequences of violating those conditions. Seek review of shelter care decisions as appropriate and advise the parent client or any third parties of changes in conditions for pretrial placement that would be likely to get the court to agree with the parent client's plan. (Specific Standards for Representation in Juvenile Dependency Cases Page 110)</p>	<p><i>Seek review of shelter care decisions as appropriate.</i></p>	
<p>10. At the conclusion of the shelter hearing, after discussing items 8 and 9 (above) with the parent client, schedule an initial office appointment with the parent client. When feasible, the initial interview should occur within 72 hours of appointment. The appointment should be scheduled to be as convenient as possible for the parent client and should not interfere with the parent client's visitation (if the child has been removed) or other obligations. The timing should also allow enough time for the receipt of discovery and other information necessary for a productive discussion of the case.</p> <p>When the attorney appearing at the shelter hearing will be the parent client's assigned trial lawyer, the parent client should be provided, in writing, the contact information of the parent client's trial lawyer and the date, time, and</p>	<p><i>At the conclusion of the shelter hearing, if possible, schedule an initial client meeting with the child client.</i></p> <p><i>When feasible, the initial interview should occur within 72 hours of appointment. The appointment should be scheduled to be as convenient as possible for the child client and should not interfere with the child client's visitation (if removed with a parent) or other obligations like school or medical appointments.</i></p> <p><i>When the attorney appearing at the shelter hearing will be the assigned trial attorney, the attorney should be prepared to provide, in writing, the contact information of the attorney to the child client, the child client's care giver, and the caseworker. When the attorney appearing at the shelter hearing is not</i></p>	<p>8. Communication with the Agency:</p> <p>a. The attorney should regularly communicate with the agency to discuss case developments. When appropriate, the attorney should share information with other professionals, which may include prosecutors, law enforcement, and attorneys. For example, the attorney should communicate with a prosecutor regarding related criminal matters, to ensure that probation orders and disposition orders do not conflict and, where appropriate, are mutually reinforcing (e.g., a visitation order in an abuse and neglect case should not contradict a no-contact order from a criminal court).</p> <p>b. The attorney should provide clear, concise, timely advice that is readily accessible to the agency.</p>

OSB Performance Standards Applied to Shelter Hearings

Parent's Attorneys	Children's Attorneys	Agency Attorneys
<p>location of the office appointment.</p> <p>When the attorney appearing at the shelter hearing will not be the parent client's assigned trial lawyer (as is sometimes the case with large consortia or public defender firms) the parent client should be provided, in writing, the contact information for a staff person who will be able to provide the parent client with the name of the parent's assigned trial lawyer and the date, time, and location of the office appointment. As soon as the parent client's case is assigned to his or her attorney, the staff of the parent client's trial lawyer should contact the parent client, by phone and email, to schedule the initial interview.</p>	<p><i>the assigned trial attorney, the case worker and, if present, the child client and the child client's caregiver should be given contact information for a staff person who will be able to give them the name and contact information for the assigned trial attorney. The attorney and staff should follow up to schedule an initial meeting.</i></p> <p><i>Where an initial meeting with the child client is not able to occur within 72 hours, the trial attorney should document the reason for any delay in scheduling (changes in placement, communication barriers, health, etc.).</i></p>	