



# Oregon Juvenile Law Annual Appellate Update

THROUGH THE EYES OF THE CHILD CONFERENCE

July 2024 – June 2025

## Table of Contents

<b>Delinquency</b> .....	4
ASSAULT.....	4
COMMITMENT TO OREGON YOUTH AUTHORITY.....	5
CONDITIONS OF PROBATION .....	7
CRIMINAL MISCHIEF.....	7
INADEQUATE ASSISTANCE OF COUNSEL.....	8
RESTITUTION.....	8
SEX OFFENDER REPORTING REGISTRATION .....	9
<b>Dependency</b> .....	9
DELEGATION OF JUDICIAL POWER .....	10
EVIDENCE .....	10
GUARDIANSHIP .....	10
JUDICIAL NOTICE.....	11
JURISDICTION.....	12
<i>Domestic Violence</i> .....	12
<i>Failure to Maintain Safe Environment</i> .....	12
<i>Failure to Protect</i> .....	12
<i>Substance Abuse</i> .....	13
<i>Domestic Violence/Substance Use</i> .....	14
<i>Telephone Testimony</i> .....	14
<i>Mental Health</i> .....	15
<i>Risk of Harm</i> .....	15
PATERNITY .....	17
PERMANENCY HEARINGS .....	17
<i>Compelling Reasons</i> .....	17
<i>Judgment Document</i> .....	17
<i>Psychological Evaluation</i> .....	18
<i>Reasonable/Active Efforts</i> .....	18
<i>Sufficient Progress</i> .....	22
RECORDS.....	23
STANDARD OF REVIEW .....	24
TERMINATION OF PARENTAL RIGHTS.....	25
<i>Best Interests of the Children</i> .....	25
<i>Default Judgment</i> .....	25

WAIVER OF COUNSEL..... 26

# Delinquency

## ASSAULT

- *State v. B.I.Z.V.*, [332 Or App 726](#) (2024)

Youth appealed a judgment finding him to be within the juvenile court's jurisdiction for an act that, if committed by an adult, would constitute assault in the third degree, assault in the fourth degree, and harassment. Youth had two assignments of error: (1) the evidence was insufficient for the juvenile court to adjudicate him for third-degree assault, because the evidence did not show that he was "aided by another person actually present," and (2) the juvenile court plainly erred by failing to merge fourth-degree assault with third-degree assault. The evidence presented showed that youth's two friends closed and blocked the bathroom door before youth repeatedly punched the victim in the bathroom. The youth argued this evidence was insufficient specifically because the victim was not aware of youth's friends' presence. The Court of Appeals determined that sufficient evidence existed that youth had been "aided by another person actually present". The court concluded that the victim need not know of others present to fulfill the requirements of being "within reach, sight or call," and to "present an added threat to the victim's safety." Second, the court determined that the juvenile court plainly erred in failing to merge fourth-degree assault with third-degree assault, and the court exercised its discretion to correct that error. Jurisdictional judgment reversed and remanded for entry of judgment reflecting adjudication for one count of third-degree assault and one count of harassment.

- *State of Oregon v. G. K. S.* [337 Or App 535](#) (2024)

Youth appealed from a judgment asserting delinquency jurisdiction over him for committing an act that, if committed by an adult, would constitute assault in the fourth degree. Youth and his friend, R, were involved in an after-school altercation in which T, another youth, was punched in the face, knocking him unconscious. The state petitioned the juvenile court to assert delinquency jurisdiction over youth for committing an act that, if done by an adult, would constitute assault in the third degree. Ultimately, however, the court asserted jurisdiction based on fourth-degree assault on an aiding and abetting theory. On appeal, youth challenges the court's denial of his motion to dismiss the petition for third-degree assault. The state concedes that there is insufficient evidence in the record that youth "caused" physical injury, which is required for third-degree assault. The Court of Appeals accepted the state's concession and concluded that the juvenile court erred in denying youth's motion to dismiss the third-degree assault charge. Under these circumstances, the proper remedy was to reverse the adjudication, putting youth back in the position he would have occupied if the juvenile court had correctly granted his motion to dismiss. Reversed.

## COMMITMENT TO OREGON YOUTH AUTHORITY

- ***State v. E.S.*, [333 Or App 350](#) (2024)**

Youth appealed a judgment revoking youth's probation and committing youth to the Oregon Youth Authority (OYA) for placement in a youth correctional facility. On appeal, Youth raised two assignments of error. First, youth argued that the juvenile court erred by denying youth's request to set over the disposition. Second, youth argued that the juvenile court failed to make written findings as required by ORS 419C.478(1) describing why it is in youth's best interests to be placed with OYA. On the first error, the Court of Appeals held that the trial court did not abuse its discretion by denying the setover request. On the second error, the Court held that the juvenile court's written findings did not satisfy ORS 419C.478(1) when they included a list of the services that the youth received and issues the youth was continuing to have. The Court compared the ambiguity of the findings to those in *State v. D.B.O.*, [325 Or App 746](#) (2023). The court must direct its written findings to the specific issue of why it is in a youth's best interests to be placed with OYA. Vacated and remanded for findings under ORS 419C.478(1); otherwise affirmed.

- ***State v. N. K. H.* [341 Or App 78](#) (2025)**

Youth appealed a judgment committing him to the legal custody of the Oregon Youth Authority (OYA) after he admitted to violating his probation. On appeal, youth argued that the juvenile court erred when it determined that commitment to OYA custody for placement in a youth correctional facility was in his best interests. The Court of Appeals held that the juvenile court did not abuse its discretion because the record demonstrates that it thoroughly considered the positive and negative impacts that commitment to OYA custody may have on youth. Affirmed.

- ***State v. M. B.*, [338 Or App 736](#) (2025)**

Youth appealed a dispositional judgment committing him to the Oregon Youth Authority (OYA) for placement in a youth correctional facility. On appeal, youth argued that the juvenile court abused its discretion when it committed him to OYA custody and that its written findings did not comply with ORS 419C.478(1). The Court of Appeals found that the record contained sufficient evidence to allow the juvenile court to determine that placement in an OYA correctional facility was in youth's best interests and held that the juvenile court did not abuse its discretion. Regarding the written findings, the state conceded that the findings were insufficient under ORS 419C.478(1). The Court of Appeals accepted the state's concession reasoning that the finding concerned only the youth's behavior in the community instead of describing why a placement in an OYA correctional facility was in the youth's best interest. Vacated in part and remanded for written findings under ORS 419C.478(1); otherwise affirmed. Youth and the state petitioned for reconsideration (opinion below).

- *State v. M. B.* [341 Or App 334](#) (2025)

Youth and the state petitioned for reconsideration of *State v. M. B.*, 338 Or App 736, 566 P3d 713 (2025). In that opinion, the Court of Appeals concluded that the juvenile court did not abuse its discretion when it determined that commitment to the legal custody of the Oregon Youth Authority (OYA) for placement in a youth correctional facility was in youth's best interests. However, the Court of Appeals accepted the state's concession that the juvenile court erred because its written best-interests findings did not satisfy ORS 419C.478(1).

In his petition, youth renewed his argument that the juvenile court used "an incorrect legal standard" in making its determination. In turn, the state contended that the opinion applied the ORS 419C.478(1) written findings requirement for commitment to OYA custody to ORS 419C.495(1), which concerns placement in a youth correction facility. The Court of Appeals denied youth's petition for reconsideration because the record contained evidence that allowed the juvenile court to determine that commitment to OYA custody was in youth's best interests. However, because ORS 419C.478(1) does not require a juvenile court to describe why it is in a youth's best interests to be placed in a particular OYA facility, the Court of Appeals allowed the state's petition. State's petition for reconsideration allowed; youth's petition for reconsideration denied; former opinion withdrawn; vacated in part and remanded for written findings under ORS 419C.478(1); otherwise affirmed.

- *State v. T. J. L.* [335 Or App 477](#) (2024)

Youth appealed his commitment to the legal custody of the Oregon Youth Authority after his adjudication for conduct that, if committed by an adult, would constitute second-degree manslaughter and driving under the influence of intoxicants. In his single assignment of error, youth contended that the trial court improperly focused on the nature of his offense, which resulted in the death of his friend, rather than youth's best interests under ORS 419C.478. Youth asked the Court of Appeals to reverse and remand with directions to the juvenile court to separate its best interest finding for youth from its consideration of accountability for youth. In response, the state argued that the juvenile court is expected to consider a variety of factors in its disposition and that it properly considered accountability as one relevant factor in this case. The Court of Appeals held that the juvenile court did not abuse its discretion in deciding that initial placement in a correctional facility is ultimately what is in youth's best interests. Affirmed. Youth sought reconsideration (opinion below).

- *State of Oregon v. T. J. L.*, [337 Or App 600](#) (2025)

Youth sought reconsideration of a Court of Appeals decision that affirmed a juvenile court judgment that committed him to the custody of the Oregon Youth Authority (OYA). *State v. T. J. L.*, 335 Or App 477, 558 P3d 855 (2024). He requested reconsideration on two points. First, he

took issue with a reference to ORS 419C.411 in the portion of the opinion discussing the requirement in ORS 419C.478(1) that the juvenile court make written findings as to why placement with OYA is in a youth's best interest. Second, he challenged a footnote in which the court declined to speak in terms of a "presumption" that the state had to "overcome." Contemporaneously with youth filing his petition, the Appellate Division of the Oregon Public Defense Commission (OPDC) moved to appear as amicus curiae in order to seek reconsideration on an unrelated third issue. The Court of Appeals allowed reconsideration on youth's petition, made two modifications to the opinion, and adhered to the opinion as modified. The court denied OPDC's motion to appear as amicus curiae. Motion to appear as amicus curiae denied. Reconsideration allowed; former opinion modified and adhered to as modified.

## CONDITIONS OF PROBATION

- *State v. D. S. H.*, [339 Or App 596](#) (2025)

The court adjudicated youth delinquent, placed him in the legal custody of Oregon Youth Authority (OYA), and ordered him to "[f]ollow probation conditions as designated by OYA." Youth was later terminated from his placement in an OYA residential program. The state alleged that youth had violated his probation by failing to follow OYA-designated probation conditions. Although the state failed to make a record of what probation conditions, if any, had been designated by OYA, the juvenile court found youth in violation based on its belief that OYA would have imposed a probation condition requiring that youth not be discharged from his residential program. On appeal, youth argued that was plain error. The Court of Appeals held that the juvenile court plainly erred in finding youth in violation of his probation without knowing what probation conditions, if any, had actually been designated by OYA for youth. The juvenile court lacked an objective measure by which to evaluate youth's conduct, and youth's ability to show that he had not violated his probation conditions was compromised. If OYA is granted authority to designate its own probation conditions for a youth, it is important for OYA to notify the juvenile court and the youth of what those conditions are, and that any probation violation is tied to an actual probation condition. The Court of Appeals exercised its discretion to correct the error. Reversed and remanded.

## CRIMINAL MISCHIEF

- *State v. L. J. G.*, [339 Or App 681](#) (2025)

Youth appealed a judgment adjudicating him delinquent for conduct that, if committed by an adult, would constitute third-degree criminal mischief under ORS 164.345. In the underlying case, the youth tampered with a broken ceiling tile above a toilet in his middle school's restroom causing the tile to fall and break and subsequently be replaced by the janitor. He contends that the evidence is insufficient to support a finding that he had the requisite state of mind acting



"with the intent to cause substantial inconvenience to the owner or another person," to commit the offense. The Court of Appeals held that the evidence does not allow for a reasonable inference that youth acted with the requisite mental state when he carried out the charged conduct. The only reasonable inference on the record is that youth was acting without regard to the inconvenience his conduct caused to the property owner, but thoughtlessly tampering with another's property without regard for the interests of others does not constitute third-degree criminal mischief. The juvenile court erred in concluding otherwise. Reversed.

## INADEQUATE ASSISTANCE OF COUNSEL

- *State v. D. W. N.*, [339 Or App 35](#) (2025)

Youth appealed a juvenile court "Order Denying Youth's Petition To Set Aside Jurisdiction," entered after youth sought post-adjudication relief under ORS 419C.615(1)(a). On appeal, youth raised one assignment of error, arguing that the juvenile court erred in denying his petition to dismiss jurisdiction. Youth contended that his trial counsel was constitutionally inadequate and ineffective in failing to move to suppress statements that youth made to police, and that, had those statements been suppressed, he would not have admitted to conduct that, if committed by an adult, would constitute second-degree sexual abuse and strangulation, ORS 163.187. At the hearing on the petition to set aside jurisdiction, trial counsel testified that she did not think suppression of the youth's statements would be successful as it appeared youth had revoked his right to remain silent when he spoke after receiving Miranda warnings. She also testified that she considered negative impacts including that pursuing suppression of youth's statements would cause the state to revoke its plea offer, and given other factors, it was likely proceed to trial on a more serious charge. The Court of Appeals concluded that trial counsel's decision not to pursue suppression of youth's statements constituted a strategic decision and a reasonable exercise of professional skill and judgment in response to the circumstance. Youth did not prove that he suffered prejudice from any deficiency in counsel's performance. Affirmed.

## RESTITUTION

- *State v. A.E.A.*, [332 Or App 584](#) (2024)

Youth appealed a judgment imposing restitution for acts that, if committed by an adult, would constitute unauthorized use of a vehicle (UUV). Youth stole his parents' car with his friend and co-youth and the car was damaged when his co-youth drove it recklessly. Youth admitted to conduct that, if committed by an adult, would constitute unauthorized use of a vehicle (UUV) under ORS 164.135. The juvenile court ordered youth to reimburse his parents' insurance company in the amount of \$3,412.81 to cover repair costs. On appeal, Youth argues that he did not admit to causing damage to the car when he admitted to the UUV charges, and that there was not enough evidence to establish a causal relationship between his activity and the damage to the



car. The Court of Appeals held that when determining damages for restitution, a court looks to the principles enunciated in civil cases concerning economic damages. Here, the car would not have been damaged but for youth's criminal activity, which is a sufficient causal link to support the juvenile court's imposition of restitution. Affirmed.

## SEX OFFENDER REPORTING REGISTRATION

- *State v. B. J. P.*, [339 Or App 134](#) (2025)

Youth appealed a juvenile court order requiring him to report as a sex offender. In this case, the youth was revoked from probation after failing to complete his treatment program. The hearing on his registration took place over the course of several months. Youth appealed the juvenile court's decision, first arguing that, the juvenile court applied an erroneous legal standard in assessing whether he met his burden to prove that he is rehabilitated under ORS 163A.030(7)(b). Second, youth argued that the juvenile court erred by excluding two academic articles about juvenile sexual recidivism and the effectiveness of specialized treatment programs, as well as youth's original treatment notebook, as discretionary sanctions for discovery violations. The Court of Appeals held that the juvenile court did not err in requiring youth to report as a sex offender because the record did not require it to answer the factual question as to whether youth had met his burden to prove that he was rehabilitated in a different way. Second, although the articles and treatment notebook were relevant to the issues before the juvenile court, the juvenile court did not abuse its discretion when it declined to receive those exhibits. Affirmed.

- *State v. K.L.F.*, [333 Or App 434](#) (2024)

Youth appealed the juvenile court's judgment denying his petition for relief from registration as a sex offender under ORS 163A.030(1). The juvenile court denied relief because it determined that youth failed to prove by clear and convincing evidence that he was rehabilitated and posed "no risk" to the public of reoffending. After the court issued its judgment, the Supreme Court clarified that the standard under which to analyze a youth's risk of reoffending is whether the youth poses a "low risk" to the public. *State v. A. R. H.*, 371 Or 82, 95, 530 P3d 897 (2023). The Court of Appeals concluded that the juvenile court applied an incorrect legal standard in determining youth's risk of reoffending. The court exercised its discretion to review the record de novo to apply the correct legal standard announced by the Supreme Court. On de novo review, the court found that youth proved by clear and convincing evidence that he is rehabilitated and poses a low risk of reoffending. Accordingly, youth was entitled to relief from registration. Reversed.

## Dependency

## DELEGATION OF JUDICIAL POWER

- *Dept. of Human Services v. D. F.* [336 Or App 263](#) (2024)

On appeal, mother challenged a court order included in a juvenile court's judgment of jurisdiction and disposition asserting dependency jurisdiction over mother's child, ordering mother to "comply with the terms of the Action Agreement" prepared by the Department of Human Services (DHS) and attached to the judgment. Mother argues that the juvenile court lacked legal authority to order her to comply with the entire Action Agreement. She further argues that ordering her to comply with the entire Action Agreement and incorporating it into the judgment "blurs \* \* \* critical distinctions" between DHS's role as case planner and the juvenile court's role as neutral arbiter and "raises institutional concerns" as it "gives the appearance of unlawful delegation." The Court of Appeals rejected mother's claim of error as unpreserved. The court concluded that although mother objected to the juvenile court adopting the entire Action Agreement into its judgment, she framed her objection in terms of a preference and never argued that the court lacked legal authority to do so. Affirmed

## EVIDENCE

- *Dept. of Human Services v. K. B. L.* [340 Or App 482](#) (2025)

Mother challenged judgments asserting jurisdiction over her three children based on allegations related to her substance abuse and exposing the children to an adult who injured one of them. In twenty-four assignments of error, mother made two primary arguments. First, mother asserted that the juvenile court erred by admitting toxicology lab reports of the children under the business records exception to hearsay, OEC 803(6), and by admitting testimony about those lab reports. Second, mother argued that the juvenile court erred in asserting dependency jurisdiction because the Department of Human Services failed to prove that mother exposed the children to a cognizable risk of harm. First, the Court of Appeals concluded that the juvenile court erred in admitting the lab reports because there was not a proper foundation when there was not testimony from someone who created the reports or had insight into how they were generated. The Court of Appeals also found the juvenile court erred in admitting the related testimony from the nurse practitioner who took the samples and sent them to the lab because the testimony merely parroted inadmissible hearsay statements. Second, the court concluded that the juvenile court erred in asserting jurisdiction on the allegations that rely on the lab reports and related testimony and affirmed the remaining jurisdictional judgments. Reversed and remanded for entry of jurisdictional judgments omitting allegations 4(D) and 4(E) as bases for jurisdiction; otherwise affirmed.

## GUARDIANSHIP

- *Dept. of Human Services v. J. J.* [340 Or App 50](#) (2025)

Father appealed from a judgment establishing a permanent guardianship for his child and from an order denying his motion to set aside a "finding of default." Father asserted that the juvenile court erred in failing to find excusable neglect for father's absence from a pretrial hearing that he said he did remember and did not have written notice of. He further argues that the juvenile court at a later date improperly proceeded to enter the judgment establishing guardianship pursuant to ORS 419B.819(7) even though he was present at the hearing.

Regarding the motion to set aside, Father acknowledged that he was orally informed of all hearing dates at an earlier hearing and in it's objection, DHS showed evidence of a text message to father reminding him of the hearing. The Court of Appeals rejected father's argument regarding excusable neglect concluding that the juvenile court did not err as a matter of law in concluding that there was no excusable neglect as father failed to demonstrate a connection between his failure to appear and a reasonable ground for that failure. The court additionally concluded that the juvenile court plainly erred by entering a judgment pursuant to ORS 419B.819(7) during a hearing when father was *actually present* as required by *Dept. of Human services v. A. D. G.*, 260 App 525, 540, 546-547, 317 P3d 950 (2014). However, the court declined to exercise its discretion to correct the error. Finally, in response to father's assertion that he received inadequate assistance of counsel, the court concluded that the record was insufficient to establish whether father was entitled to relief and remanded for an evidentiary hearing on father's claim of inadequate assistance of counsel. Vacated and remanded.

## JUDICIAL NOTICE

- *Dept. of Human Services v. M. M.* [335 Or App 488](#) (2024)

Father appeals the denial of his motions to dismiss dependency jurisdiction of his two youngest children. In his first 10 assignments of error, father contends that the evidence was legally insufficient to continue jurisdiction and seeks outright reversal of the judgments. In his eleventh and twelfth assignments of error, father argues that, at a minimum, the court should reverse and remand because the juvenile court erroneously took judicial notice of testimony from a prior permanency hearing. The Department of Human Services (DHS) counters that there was sufficient evidence to deny the motions to dismiss. As to the judicial notice issue, DHS concedes that the trial court plainly erred under OEC 201(b) but argues that the error was harmless. The Court held that the record evidence was legally sufficient to allow the denial of father's motions to dismiss. However, the juvenile court plainly erred in taking judicial notice of the testimony presented at a prior permanency hearing, the error was not harmless because the court failed to make a proper record of the judicially noticed facts pursuant to ORS 419A.253. Reversed and remanded.

## JURISDICTION

### Domestic Violence

- *Dept. of Human Services v. E. M. S. M.*, [339 Or App 620](#) (2025)

Father appealed from a judgment of the juvenile court that took jurisdiction over his four children, raising 48 assignments of error. In his first four assignments of error, father contended that the juvenile court erred in allowing the two youngest children to testify without first having been sworn as required by OEC 603. Father next assigned error to each jurisdictional basis for each child, as well as to the ultimate ruling taking dependency jurisdiction. The Court of Appeals concluded that father's first four assignments of error, which are unpreserved, are not plain. The court did not address nine of father's assignments of error challenging certain jurisdictional bases because father did not develop any argument on appeal as to why those jurisdictional bases are not supported by the evidence. Further, the court declined to consider father's challenge to the jurisdictional allegation that father exposed the children to inappropriate physical or psychological discipline because father's argument was not preserved. As to the juvenile court's ultimate decision to take jurisdiction over the children, the court concluded that the record supported the juvenile court's finding that father's conduct exposed the children to a cognizable risk of harm. Affirmed.

### Failure to Maintain Safe Environment

- *Dept. of Human Services v. J. L. D.*, [339 Or App 259](#) (2025)

Father appealed from a judgment asserting dependency jurisdiction over his child. In two assignments of error, father asserted that DHS failed to adduce sufficient evidence for the juvenile court to assert jurisdiction over child. The allegation at issue on appeal is father's failure to maintain a safe environment for child since, at the time of removal, father and child were living with a friend whose home was searched by police, drug and other paraphernalia were found. The search led to removal of all substances as evidence, and the arrest of father's friend. Child was removed and tested positive for substances. At the time of the trial, father was still living at his friend's house, friend was still in jail, and no evidence was presented regarding the current condition of the home. The Court of Appeals held that based on a review of the entire record, there was insufficient evidence that the condition of the home as it related to the particular allegation at the time of trial, posed a risk of harm to child that was reasonably likely to occur. Reversed.

### Failure to Protect

- *Dept. of Human Services v. S. J. M.*, [338 Or App 587](#) (2025)

Mother appealed the juvenile court's judgment asserting dependency jurisdiction over her 12-year-old daughter, T, on bases related to mother's failure to act protectively after T disclosed sexual abuse by mother's husband. Mother challenged all three jurisdictional bases, arguing that the Department of Human Services failed to prove that the circumstances at the time of trial exposed T to a current risk of serious loss or injury that is likely to be realized in the absence of dependency jurisdiction. The Court of Appeals held that the juvenile court's determination that the risk of harm to T caused by mother's failure to act protectively was current at the time of the jurisdictional hearing required impermissible speculation. Mother did not initially believe T when she disclosed that Mother's husband groped her. Further incidents occurred that T did not disclose to mother. At the time of the jurisdictional hearing, Mother testified that she would act protectively and would believe T. Mother's husband was in jail at the time of the hearing and there was no evidence as to a pending release. The court would have to speculate that mother's husband would make bail and contact T to determine there was a current threat. In addition, the court's unexpressed (but implicit) disbelief of mother's testimony that she did not want contact with her husband, would not allow him in her home, and would act protectively of T was not sufficient on its own to take jurisdiction in this case, because disbelief of mother does not equate to affirmative evidence upon which the court could make an opposite inference. Reversed.

## **Substance Abuse**

- *Dept. of Human Services v. T. M.*, [338 Or App 725](#) (2025)

Mother appealed from a juvenile court judgment asserting dependency jurisdiction over her child on the basis that mother was self-medicating her narcolepsy with the use of methamphetamine. On appeal, mother argued that the juvenile court improperly relied on personal knowledge of the risks of laced drugs, and that her drug use did not pose a risk of harm to her child. The Court of Appeals concluded that a juvenile court may rely on the common knowledge that methamphetamine laced with fentanyl is dangerous, can incapacitate individuals, and can easily lead to overdoses. The Court of Appeals also concluded that the juvenile court did not err when it concluded that mother's drug use interfered with her ability to safely parent her child given mother's admission that she drove her child in the car while using methamphetamine, and the medical circumstances underlying the case. Affirmed.

- *Dept. of Human Services v. K. G.*, [338 Or App 581](#) (2025)

Mother appealed a juvenile court's judgment asserting jurisdiction over her two-year-old daughter, E. She assigned error to the trial court's determination that the Department of Human Services had proved two allegations in the dependency petition, which both relied on a finding that mother was abusing substances. On appeal, mother argued that the evidence presented was insufficient to support a finding that mother was using substances and that her use created a current risk of serious harm to E.

The Court of Appeals held that the juvenile court erred when it relied on mother's evasive responses to questions about substance use and a hair follicle test finding that E was exposed to methamphetamine while in mother and father's care, as affirmative evidence of her substance use. That inference was too speculative given that mother's evasive testimony, responding "I don't know" to questions about use, was not affirmative evidence of use considering father did admit to use prior to E's removal. The court also held that collateral reports that expressed concerns about impairment, without any direct evidence or an established history of substance use, did not support a nonspeculative inference of mother's substance use. Reversed and remanded for entry of a jurisdictional judgment establishing dependency jurisdiction based on other allegations; otherwise affirmed.

### **Domestic Violence/Substance Use**

- *Dept. of Human Services v. G. S. M.*, [334 Or App 350](#) (2024)

Father appealed from a judgment of the juvenile court asserting jurisdiction over his child. Father argued that the juvenile court erred in asserting jurisdiction over child because there was insufficient evidence in the record to support the allegations that father's substance abuse, failure to maintain a safe environment, and both his and mother's failure to protect child from domestic abuse were likely to cause harm to child. The Court of Appeals held that there was sufficient evidence to support the juvenile court's assertion of jurisdiction on each of the challenged allegations except the ones relating to domestic abuse between father and mother. Although there was evidence of domestic abuse between father and mother, there was insufficient evidence of a current threat of serious loss or injury to child because of that abuse. Reversed and remanded with instructions to enter a jurisdictional judgment omitting allegations 4C and 4G in the amended petition as a basis for jurisdiction; otherwise affirmed.

### **Telephone Testimony**

- *Department of Human Services v. E. L. P.* [336 Or App 751](#) (2024)

In this consolidated juvenile dependency appeal, mother and father appeal a jurisdictional judgment in which the juvenile court found their child to be within its dependency jurisdiction under ORS 419B.100. Father raises five assignments of error and mother raises one assignment of error. In father's first two assignments of error, he argues that the juvenile court erred in denying his motions to continue after father was unable to appear by video or in person but was able to appear by phone. In his third and fourth assignments of error, father argues that the juvenile court erred in denying his request for replacement counsel and his counsel's motion to withdraw. In father's fifth assignment of error and mother's single assignment of error, the parents argue that the juvenile court erred in taking jurisdiction over their child. Held: The juvenile court did not abuse its discretion in denying father's requests for a continuance because those denials did not violate father's statutory or due process rights. Father was able to appear by

phone and nothing in the juvenile code or case law requires that a parent be able to appear by video or in person which was the basis for his request for a continuance. Further, the Court of Appeals rejected father's third and fourth assignments of error because father developed no argument under 419B.205(1) or the applicable case law. Finally, the court agreed with and accepted the department's concession that the juvenile court erred in asserting jurisdiction on allegation 4M and concluded that the juvenile court did not err in taking jurisdiction based on the remaining allegations. Reversed and remanded for entry of judgment omitting allegation 4M as a basis for jurisdiction; otherwise affirmed.

## **Mental Health**

- *Dept. of Human Services v. J. M. R.*, [335 Or App 273](#) (2024)

Mother appealed the denial of her motion to dismiss juvenile court jurisdiction over her child, which was based on the allegation that "if left untreated, \* \* \* mother's mental health interfered with her ability to safely parent." Before the juvenile court, mother argued that her efforts in treatment had eliminated any further danger to child. In detailed findings, the juvenile court acknowledged mother's progress but found the progress insufficient to eliminate risk to the child from mother's mental illness. On appeal, mother argued that, without evidence that her mental health problems remained "untreated," the department failed to meet its burden of proof to support the asserted basis for jurisdiction. Mother also asserted that the juvenile court plainly erred by admitting expert testimony and evaluations from two witnesses without requiring the department to establish a sufficient basis for qualifying those witnesses as experts. The Court of Appeals rejected mother's jurisdictional basis argument on appeal as unpreserved since mother's argument to the juvenile department was not focused on whether or not she attended treatment but on whether there was a present safety threat related to her mental health. The court further held that the foundation laid for admission of the evidence was not plainly insufficient. Affirmed.

## **Risk of Harm**

- *Dept. of Human Services v. A. R. E.* [340 Or App 73](#) (2025)

The juvenile court asserted dependency jurisdiction over 12-year-old Indian child, on the basis that mother's substance abuse endangers child and causes an inability to meet her needs, putting child at substantial risk of harm. Child appealed, contesting each of the court's jurisdictional findings and the exercise of jurisdiction under the totality of the circumstances. In three assignments of error, child argued that the court erred in (1) determining that "mother's substance abuse has created conditions that interfere with her ability to be a safe parent"; (2) determining that child "has needs that mother has been unable to meet and which creates a substantial risk of harm to [child]"; and (3) exercising jurisdiction. The record included mother's long term daily



fentanyl use causing exposure to child, housing instability including child sleeping in a car on occasion, child's behavioral problems including juvenile delinquency involvement and academic issues and mother's inability to engage in important meetings for child due to incarceration, and issues getting child medical care. Evidence also showed that child's behavior and school engagement improved while out of mother's care. The Court of Appeals evaluated the juvenile court's findings in the light most favorable to the juvenile court's disposition and assessed whether, when so viewed, the totality of evidence in the record was legally sufficient to permit any rational juvenile court to find that it is highly likely that facts exist indicating that continued custody by mother was likely to result in serious emotional or physical damage to child. After reviewing the record, the court determined that the evidence was sufficient to support the juvenile court's findings and its exercise of jurisdiction. Affirmed.

- ***Dept. of Human Services v. H. K. R. (A184700)*** [340 Or App 174](#) (2025) A185700

In this juvenile dependency case, father appealed the juvenile court's order denying his motion to dismiss the juvenile court's jurisdiction over his two youngest children. In his six assignments of error on appeal, father argued that his circumstances had changed such that the risk of harm created by the original jurisdictional bases had been ameliorated. In the alternative, he asserted that the Department of Human Services relied on evidence of facts extrinsic to the adjudicated bases by introducing evidence of emotional harm as well as his failure to engage in his own and his children's mental health treatment or understand the severity of their mental health needs. The Court of Appeals concluded that the need for mental health treatment for father and the children did not constitute extrinsic facts on this record, and regardless, the juvenile court did not impermissibly rely on those facts in making its ruling. Ultimately, the record contained sufficient evidence to conclude that some aspects of each jurisdictional basis relevant to this appeal continued to create a risk of serious harm that was likely to be realized absent jurisdiction. Affirmed.

- ***Dept. of Human Services v. S. R. L.,*** [334 Or App 375](#) (2024)

Child was removed from mother's care when, after a period of approximately three weeks without access to Adderall, he physically lashed out at staff members at his school; at the time, mother also was not protecting child against contact with her husband, who had abused child. Several months later, the juvenile court took dependency jurisdiction over child based upon the following findings: Mother is unable to meet the child's medical and safety needs; mother lacks the parenting skills to safely parent the child; and mother exposes the child to unsafe circumstances. Mother and child both appeal, assigning error to the exercise of dependency jurisdiction and the determination that each of the jurisdictional bases exposed the child to unsafe circumstances at the time of the jurisdictional hearing. The Court of Appeals held that the juvenile court erred in exercising jurisdiction because, by the time of the hearing, the circumstances that led to child's removal from mother's care had changed and, under the

circumstances at the time of the hearing, any risk of further harm was speculative. The idea that mother might, at some point, let something slip through the cracks, without evidence identifying what the future problem was likely to be, or that the problem that led to removal was likely to recur, did not justify dependency jurisdiction over child. Reversed.

## PATERNITY

- *Dept. of Human Services v. M. J. S.*, [339 Or App 711](#) (2025)

Appellant challenged four judgments that together disestablish appellant as child's legal parent and establish child's biological father as her legal parent, also setting aside appellant's voluntary acknowledgment of paternity (VAP) that had been in effect since child's birth. Appellant assigned error to all of those rulings, arguing that the trial court abused its discretion in determining that setting aside the VAP would not be substantially inequitable and, in the alternative, that the court failed to adequately explain its decision. The Court of Appeals held that although the record reflects some concerning behavior on the part of the Department of Human Services, the trial court acted within its allowable discretion and provided adequate reasoning for its decision. Affirmed.

## PERMANENCY HEARINGS

### Compelling Reasons

- *Dept. of Human Services v. L. B.*, [339 Or App 240](#) (2025)

Mother appealed from the permanency judgment changing the case plan for her child, M, from reunification to adoption. In two assignments of error, mother contended that the juvenile court plainly erred in ruling that no compelling reason existed to forgo adoption for M and that the court therefore erred in changing the permanency plan to adoption. The Court of Appeals concluded that the juvenile court did not plainly err by ruling that there were no compelling reasons to relieve the Department of Human Services of its obligation to file a petition to terminate mother's parental rights, because, while mother generally defended against DHS's motion, she did not present affirmative evidence that a guardianship was better suited to meet M's needs and did not explain on appeal why the evidence DHS presented compelled such a conclusion. Affirmed.

### Judgment Document

- *Department of Human Services v. A. S.*, [338 Or App 183](#) (2025)

Mother appealed from a permanency judgment that changed the plan for her child from reunification to adoption. In 2019, ODHS removed Child from Mother. Child was later returned

to mother in 2020 and Mother coparented Child with resource parents. In 2023, Mother relapsed, and Child was removed again. After a permanency hearing, the juvenile court made oral and written findings, including findings regarding mother's drug and alcohol use which cause mother to engage in behaviors that have a negative impact on Child. The court's written judgment, despite the incorporation of oral findings, did not include the required determination about whether one of the circumstances in ORS 419B.498(2) was applicable. In a single assignment of error, mother contends that the juvenile court erred by not including all the determinations required by ORS 419B.476(5) in writing. The Department of Human Services asserted that the requirement for written findings was satisfied because the judgment incorporated and adopted Oral findings made at the conclusion of the permanency hearing. The Court of Appeals held that the incorporation of oral findings into the judgment did not satisfy the written findings requirement in ORS 419B.476(5) reasoning that a long line of case law requiring explicit written findings that provide "all of the dots" in writing. Thus, the permanency judgment failed to include all the statutorily required determinations. Vacated and remanded.

### **Psychological Evaluation**

- *Department of Human Services v. R. M. E.* [336 Or App 853](#) (2024)

Mother appeals a juvenile court order requiring her to complete a psychological evaluation. In a single assignment of error, mother contends that the juvenile court erred when it ordered the evaluation because the Department of Human Services did not meet its burden to establish that mother needed the evaluation under ORS 419B.387. Held: The Court of Appeals concluded that the record was legally sufficient to support the juvenile court's finding that mother needed a psychological evaluation to correct the jurisdictional bases. Affirmed.

### **Reasonable/Active Efforts**

- *Dept. of Human Services v. J. J.* [340 Or App 238](#) (2025)

Father appealed a judgment that changed the permanency plan for father's child, M, from reunification to adoption. In a combined argument, father challenged the juvenile court's conclusions that the Department of Human Services (DHS) made reasonable efforts to reunify the family and that father had made insufficient progress toward reunification and its determination to change M's plan to adoption. The Court of Appeals determined that the juvenile court did not err when it concluded that DHS made reasonable efforts because DHS referred father to services that focused on ameliorating the jurisdictional basis and, after father rejected those services, the agency continued to consistently offer father services. While father pointed to recommendations of services in his evaluation, the Court of Appeals noted other findings including father's serious diagnoses and that father was likely to resist ongoing treatment. The Court of Appeals further concluded that the juvenile court did not err when it concluded that

father made insufficient progress and when it changed M's permanency plan to adoption. Affirmed.

- ***Department of Human Services v. S. E. D.* [337 Or App 448](#) (2024)**

Mother appeals from a permanency judgment changing her child's permanency plan from reunification to guardianship, challenging the how the final permanency hearing was conducted and the sufficiency of the findings in the judgment. Held: The Court of Appeals concluded that the juvenile court erred in failing to make findings regarding DHS's efforts toward reunification and mother's progress during the entire life of the case and up through the time of the final hearing, instead erroneously relying on findings that were made in a prior judgment issued months before the judgment at issue on appeal. Motion to amend designation of record denied as moot; reversed and remanded.

- ***Department of Human Services v. S. S.* [337 Or App 270](#) (2024)**

Mother appeals the permanency judgment that changed the case plan for her 17-year-old daughter from reunification to another planned permanent living arrangement (APPLA). Mother argues that the juvenile court erred by concluding that the Department of Human Services (DHS) made reasonable efforts toward the plan of reunification and that mother's progress toward reunification was insufficient. Mother also argues, relying on *Dept. of Human Services v. T. L.*, 287 Or App 753, 403 P3d 488 (2017), that the juvenile court improperly relied on facts extrinsic to the established bases of jurisdiction, specifically the estrangement between mother and daughter. Held: The Court of Appeals concluded that the juvenile court did not err in its reasonable efforts finding or in its parental progress finding. DHS provided mother with the services ordered by the juvenile court, and despite mother's participation in those services, mother continued to disbelieve her daughter's disclosures of abuse and failed to demonstrate that she could prevent further emotional harm. Finally, because mother failed to make sufficient progress toward ameliorating the bases of jurisdiction, this case is distinguishable from *T. L.*, and the record supports the conclusion that requiring contact between mother and daughter before mother has made such progress would be contrary to daughter's health and safety. The juvenile court did not err in changing the permanency plan from reunification to APPLA. Affirmed.

- ***Dept. of Human Services v. H. K. R.* [340 Or App 179](#) (2025) A184897**

Father appealed from a permanency judgment in which the juvenile court changed the permanency plan from reunification to guardianship for his children. In six assignments of error, father argued that the juvenile court erred in concluding that the Department of Human Services made reasonable efforts to reunify father with his children and that father's progress to ensure that it was safe for the children to return home was insufficient. Father also contended that the juvenile court relied on evidence of facts extrinsic to the adjudicated bases to reach its determination. The Court of Appeals held that father did not preserve his argument as to his

sufficient progress and concluded that the juvenile court did not err in its reasonable efforts determination. Further, the facts that the children had their own mental health needs and that father needed to seek mental health treatment were fairly implied by the original adjudicated bases. Affirmed.

- ***Department of Human Services v. K. R. K.* [336 Or App 843](#) (2024)**

Mother appeals from a juvenile court judgment changing the permanency plan for her son, A, from reunification to adoption. She challenges the juvenile court's determination that the Department of Human Services (DHS) satisfied its burden to prove that it made reasonable efforts to assist mother in ameliorating the jurisdictional bases. Mother claims DHS's efforts were not reasonable because it did not implement two specific recommendations in the psychological evaluation and because it did not provide mother with in-home safety service providers. Held: The juvenile court did not err when it determined that DHS's efforts were reasonable. DHS's efforts focused on ameliorating the jurisdictional bases of the case, and it was that language--and not the language from the psychological evaluation--that set the expectation of services provided by DHS. Further, DHS worked with mother to identify any natural supports in her life who could serve as a safety service provider. Under the circumstances, those efforts were reasonable. Motion to strike dismissed as moot, affirmed.

- ***Department of Human Services v. C. H.*, [373 Or 26](#) (2024)**

The Supreme Court reviewed an appellate decision affirming a juvenile court ruling changing a child's permanency plan from reunification to adoption. At a permanency hearing, the juvenile court determined that DHS had made reasonable efforts to make possible the child's safe return home and that parents had not met their burden to show that there was a compelling reason not to change the permanency plan to adoption. Parents appealed and the Court of Appeals affirmed those rulings. On review in the Supreme Court, parents contended that DHS had failed to tailor its efforts to parents' unique needs, particularly their cognitive disabilities, and had displayed a level of cultural and racial insensitivity that made its efforts unreasonable.

Parents both have cognitive disabilities. Their child was born prematurely with special medical needs, and, because of concerns about parents' ability to care for the child, the child was placed in substitute care upon discharge from the hospital. For two years, DHS attempted to provide services to the parents to help make the safe return of the child to their home possible, including offering developmental disability services, visitation and parent training, counseling, parent mentoring, and assistance in finding stable housing. Parents participated in some of those services but not in others, and many referrals for services were closed due to parents' lack of engagement. Parents often did not answer calls from DHS, and they rarely initiated contact with the agency. Over time, the relationship between parents and the caseworker broke down.

In a unanimous opinion, the Supreme Court held that the juvenile court had not erred in concluding that DHS had made reasonable efforts to make it possible for the child to return to parents' home and also that the juvenile court had not erred in determining that there was no compelling reason why adoption would not be in the child's best interest. In reaching those conclusions, the court considered the meaning of the phrase "reasonable efforts" in ORS 419B.476(2)(a). The Court held that (1) the juvenile court's "reasonable efforts" determination is a legal conclusion that appellate courts review for errors of law; (2) "reasonable efforts" as used in ORS 419B.476(2)(a) requires the court to take into account what is appropriate under the circumstances of the case; (3) when evaluating the reasonableness of DHS's efforts to make possible a child's safe return home, the court must consider the totality of the circumstances; and (4) "reasonable efforts" under ORS 419B.476(2)(a) are efforts that are specifically tailored to the needs of the family at issue -- and those efforts must account, when necessary, for the needs of parents with disabilities. With those standards in mind, the Court examined DHS's efforts and concluded that the record supported the juvenile court's findings that DHS had offered services tailored to the parents' needs and that "the most significant barrier" to parents' progress in becoming capable of independent parenting was their "lack of follow through and unwillingness to attend services." The Court acknowledged certain shortcomings in DHS's handling of the case, particularly in its handling of parents' conflict with first foster mother over the child's hair, but it concluded that the totality of the circumstances -- the record of DHS's efforts during more than two years of involvement with the family, together with the record of parents' responses to those efforts -- permitted the juvenile court to conclude that the agency had made reasonable efforts to make reunification possible. Finally, the court held that the juvenile court had not erred in determining that parents had not met their burden to show that a compelling reason existed not to change the permanency plan to adoption. Affirmed.

- *Dept. of Human Services v. M. A. T.*, [335 Or App 294](#) (2024)

Mother appealed from judgments changing the permanency plans for seven children away from reunification. After a permanency hearing which took place over several months, the referee entered an order changing the permanency plans away from reunification. Mother moved for a rehearing under ORS 419A.150 in front of a juvenile court judge. The parties agreed that the juvenile court was to review the record before the referee, and neither party offered additional evidence or argument. The juvenile court upheld the referee's ruling and issued judgments changing the children's permanency plans away from reunification. Advancing 14 assignments of error, mother argued that the juvenile court erred in determining that the Department of Human Services (DHS) made reasonable efforts to ameliorate the jurisdictional bases because there was no evidence related to DHS's efforts in the timeframe between the referee hearing and the final permanency judgments following the juvenile court's rehearing. The Court of Appeals held that any error by the juvenile court in failing to consider DHS's efforts following the referee hearing was invited by mother because the parties agreed that the juvenile court would consider only the evidence presented to the referee to make its decision on rehearing--



thereby limiting the timeframe of the rehearing. Further, under the totality of the circumstances, there was sufficient evidence for the juvenile court to conclude that DHS's efforts were reasonable. Affirmed.

### **Sufficient Progress**

- *Department of Human Services v. S. E.*, [338 Or App 110](#) (2025)

In May 2022, the juvenile court found children C, K, and J within its jurisdiction. In February 2024, DHS requested to change C and K's permanency plans to "a fit and willing relative" J's to adoption. At the contested permanency hearing, witnesses testified about the mother's circumstances, relationship that posed potential risks, and her lack of understanding of the children's physical and mental needs. The Department of Human Services (DHS) testified that DHS had not identified relatives who could serve as permanent placements or any adoptive resources for C and K but "placement with a fit and willing relative" was appropriate and "would allow the children to remain in their IDD homes and the agency is classified as a fit and willing relative." The juvenile court changed each child's permanency plan away from reunification changing C and K's plans to "be placed with a fit and willing relative" and changing J's plan to permanent guardianship.

Mother appealed and argued that the juvenile court erred when it changed K's and J's plans away from reunification because the Department of Human Services (DHS) failed to establish that she had made insufficient progress toward reunification with those children. Mother also argued that the juvenile court plainly erred when it changed C's and K's permanency plans to "placement with a fit and willing relative." The Court of Appeals concluded that the juvenile court did not err when it concluded that mother had made insufficient progress and when it changed K's and J's permanency plans away from reunification. However, the court concluded that the juvenile court plainly erred when it changed C's and K's permanency plans to "placement with a fit and willing relative" because its determination was based on DHS's misrepresentation of the applicable law regarding "placement with a fit and willing relative". The court elected to exercise its discretion to correct the plain error and reversed and remanded the permanency judgments with respect to C and K. The court otherwise affirmed.

- *Dept. of Human Services v. F. K.*, [335 Or App 736](#) (2024)

Mother appealed a judgment that changed the permanency plan for her child, A, from reunification to adoption. In a combined argument, mother contended that the juvenile court erred when it determined that she had made insufficient progress toward ameliorating her substance abuse and when it changed A's permanency plan. Specifically, mother argued that the Department of Human Services (DHS) failed to satisfy its burden of proof because it did not present evidence that she had used controlled substances in the seven months before the contested hearing. The Court of Appeals concluded that the juvenile court did not err because the



record permitted the juvenile court to reasonably infer that mother's substance abuse continued to interfere with her ability to safely parent A. As the court explained in *Dept. of Human Services v. N. A. S.*, 332 Or App 89, 96, 548 P3d 505, adh'd to as modified on recons, 334 Or App 358, \_\_\_ P3d \_\_\_ (2024), when the basis for jurisdiction is a parent's substance abuse, DHS is not required to "present direct evidence of contemporaneous substance abuse before the juvenile court can determine that the parent has made insufficient progress toward ameliorating the jurisdictional basis." Affirmed.

- ***Dept. of Human Services v. N.A.S.*, [332 Or App 89](#) (2024)**

Mother appealed a judgment changing the permanency plan from reunification to guardianship. Mother argued the juvenile court erred when it determined she had made insufficient progress to ameliorate her pattern of substance abuse, because DHS did not present evidence that she was using substances at the time of the permanency hearing. The Court of Appeals determined that it has never held that DHS must present direct evidence of contemporaneous substance abuse before a juvenile court can determine that the parent's progress was insufficient. The court further explained that a juvenile court may draw reasonable inferences from the evidence to support its determination. The Court noted that the record contained evidence that mother had a long-standing pattern of substance abuse, she failed to engage in treatment, she refused to provide UA's, and she was evasive. Evidence was not presented to show a substantial change in her behavior. Therefore, the court concluded that the evidence permitted the juvenile court to reasonably infer that mother's pattern of substance abuse was unchanged and that her progress toward ameliorating the jurisdictional basis was insufficient. Affirmed.

## RECORDS

- ***Department of Human Services v. J. S. C.* [336 Or App 373](#) (2024)**

Mother appeals an order denying her motion to restrict disclosure of her psychological evaluation to father during a juvenile dependency proceeding. She requests that the Court of Appeals reverse the juvenile court's order based on its statutory obligations in making a "good cause" determination necessary to prevent disclosure under former ORS 419B.881(6) (2021)--namely arguing that the juvenile court could have considered the children's well-being and the goal of expediting reunification, which are two of the primary purposes of the juvenile code. The juvenile court determined that "good cause" did not exist to prevent disclosure of the contents of mother's psychological evaluation, because father claimed a "constitutional right" to the psychological evaluation, and the court did not believe that it had "the authority to prevent one party from having the same information on a case that all other parties would have." As a result, the court did not evaluate any of the considerations that mother presented in determining whether "good cause" existed, but rather limited itself to father's constitutional argument. However, father's "legal right" to the document bears on the trial court's exercise of its discretionary

authority—not its legal determination as to whether mother established “good cause.” R. O., 316 Or App at 725. Held: The Court of Appeals concluded that the juvenile court erred in its determination that it lacked statutory authority and, from that, in its determination that mother had not established “good cause.” Reversed and remanded.

## STANDARD OF REVIEW

- *Dept. of Human Services v. N. B.*, [335 Or App 494](#) (2024)

Child, L, and the Department of Human Services (DHS) appealed a judgment denying DHS's petition to establish a permanent guardianship for L. The grounds for granting a permanent guardianship are the same as they are for terminating parental rights. After a three-day trial at which father failed to personally appear, the juvenile court denied the petition, concluding that DHS had failed to prove its allegations regarding father. On appeal, L and DHS assign error to the denial of the petition, and they request de novo review. Reasoning that the case was not “exceptional” under ORAP 5.40(8)(6), the Court of appeals declined to grant de novo review. The court of appeals found that 1) nothing in the record suggested the court’s view of the evidence was colored by an improper opinion on an open legal question; 2) because DHS’s evidence was uncontroverted, no credibility determinations were necessary; and 3) the court did not disregard the evidence, but found that it did not persuasively prove that father was unfit or had neglected the child. Affirmed.

- *Dept. of Human Services v. M.A.H.*, [332 Or App 25](#) (2024)

Father appeals from a juvenile court order directing the Oregon Department of Corrections (DOC) to disclose his mental health records to the Department of Human Services (DHS) for use in dependency proceedings. Father argues that the court erred in issuing that order because DHS failed to establish that those records, which are generally protected by federal and state law, were necessary or relevant to the purpose for which DHS sought their disclosure. The court held that in the absence of a source of law prohibiting or limiting courts from issuing such orders, the juvenile court could order DOC to disclose father’s protected health information as part of the dependency proceeding. The Court of Appeals noted no statutory authority that limits a juvenile court order to disclose protected information or that sets a standard to which the court is bound. The court instead looked to an administrative rule that places limits on DHS in this circumstance. Whether DHS was entitled to that order involved a question of law concerning whether DHS showed that the disputing records were “reasonably necessary to accomplish the purposes” of DHS’s request. See OAR 407-014-0040(5) (imposing that limit). DHS proposed the records were needed to determine what services had been completed, what further efforts would be needed, whether father had made sufficient progress to ameliorate the bases for jurisdiction, among other things. DHS complied with OAR 407-014-0040 by presenting evidence that the

disputed records were “reasonably necessary” for use at the pending permanency hearing. Affirmed.

## TERMINATION OF PARENTAL RIGHTS

### Best Interests of the Children

- *Dept. of Human Services v. K. T.*, [334 Or App 55](#) (2024)

Mother appealed from a judgment terminating her parental rights to her daughter. On appeal, mother argued that the Department of Human Services (DHS) failed to establish that she was unfit because it did not prove that child's reintegration into mother's home was improbable within a reasonable time and failed to prove that termination of her parental rights was in child's best interest. Child was born in November 2020 and has been in the care of her resource parent since shortly after her birth. Child has multiple diagnoses, is high needs, and is developmentally delayed. Mother was included in regular meetings about child's care but stopped attending because she was overwhelmed. DHS provided mother with 6 months of hands-on parenting training at visits. At the August 2023 termination trial, mother testified and could not show she understood her child's medical needs and recalled learning just one skill from the parenting training. The Court of Appeals held that based on the circumstances in this case, which include child's significant medical needs and mother not fully appreciating those needs with any detail, DHS established that reintegration into mother's home was improbable within a reasonable time and that termination of mother's parental rights was in the best interests of child. Affirmed.

### Default Judgment

- *Dept. of Human Services v. S. L. M.*, [338 Or App 676](#) (2025)

In a consolidated appeal, mother appeals from judgments terminating her parental rights to five of her children, which were entered after a proceeding in which she attended remotely via Webex but was not physically present in the courtroom. Mother raises 40 assignments of error, which reduce to several arguments about why the juvenile court made procedural errors when it concluded that mother had not made an adequate first appearance in person and, utilizing the procedure in ORS 419B.819(7), proceeded to a prima facie trial after which it entered the judgments terminating her parental rights. The Court of Appeals first concluded that the judgments were not precluded from appeal by ORS 19.245(2). The Court of Appeals then considered whether mother's remote appearance permitted the court to proceed under ORS 419B.819(7) to terminate mother's parental rights by default judgments. The court considered appellate history and the definition of “absence” reasoning that although mother did not appear in person as directed by the summons, the juvenile court engaged in a discussion with mother, appointed her an attorney who presented arguments in the pretrial portion of the hearing, and allowed them both to remain connected to Webex for the proceeding. The court concluded that

mother was not absent, and the juvenile court erred in utilizing the ORS 419B.819(7) procedure. Reversed and remanded.

## WAIVER OF COUNSEL

- *Dept. of Human Services v. R. R. R.* [340 Or App 658](#) (2025)

Father appealed a judgment asserting jurisdiction over his child, R, which the juvenile court entered after a trial where he was unrepresented by counsel. Leading up to that trial, the court approved father's request for appointed counsel but counsel was never actually appointed. Father showed up to the trial late and informed the court he had not been appointed counsel. The court told him that the trial was almost over but that he could be sworn in as a witness which father opted to do and testified on his own behalf. On appeal, father argued that the court erred in proceeding with the jurisdictional trial in the absence of appointed counsel. The state concedes that the court erred, and the Court of Appeals agreed with and accepted the state's concession. Where the court granted father's request for counsel, and he did not subsequently waive his right to counsel, it was error for the court to proceed with the jurisdictional trial in the manner that it did, taking testimony from father rather than providing him with counsel. Reversed and remanded.

- *Dept. of Human Services v. J. S.*, [339 Or App 695](#) (2025)

Mother represented herself at a Jurisdictional hearing that took place over a year after her daughter, H was removed. Delays were caused, in part, by multiple changes in mother's representation. After her third counsel withdrew, mother expressed a desire to represent herself at the fourth scheduled trial. The court reiterated the gravity of the decision, the importance of representation, and the potential consequences of self-representation. The court also acknowledged that available resources had been exhausted and it may take more time for an attorney to be assigned. At the jurisdictional hearing, mother represented herself and the court held the child, H, was within the court's jurisdiction. Mother appealed the judgment. In her first assignment of error, mother contends that the juvenile court abused its discretion in allowing her third court-appointed counsel, to withdraw. In her second and third assignments, mother contends that she did not validly waive her right to counsel and that the juvenile court erred in proceeding to trial on the jurisdictional allegations and asserting jurisdiction over H in the absence of a valid waiver. The Court of Appeals concluded that mother validly waived her right to counsel because the totality of the circumstances shows that she intentionally relinquished a known right. The court further concluded that any error in allowing counsel to withdraw was harmless on this record. The juvenile court therefore did not err in proceeding to trial on the jurisdictional allegations or in asserting jurisdiction over H. Affirmed.