



JCIP Model Dependency Forms

Summary of Changes Effective January 1, 2021

The model forms for dependency cases have undergone significant revision and reorganization. The revisions address new requirements that are effective on January 1, 2021: (1) the adoption of out-of-cycle [UTCRC 11.130 and 11.140](#); and (2) the passage of HB 4214, the Oregon Indian Child Welfare Act (ORICWA). [Or Laws 2020, ch 14 \(1st Spec Sess\)](#). A summary of the revisions is provided below. Please share this information with judges and staff in your court who handle juvenile dependency cases.

(1) **New Content Requirements for Jurisdictional and Dispositional Judgments (UTCRC 11.140)**

Beginning January 1, 2021, all jurisdictional judgments in dependency cases have new content requirements. First, all jurisdictional judgments must designate how each petition allegation is resolved in the judgment: whether it is admitted, proved, dismissed, or pending. Second, any jurisdictional judgment that is based on a post-jurisdiction dependency petition (filed after the court has made the child a ward) must include:

- In parentheses in the document title the name of the petition or petitions that are being resolved;
- All bases of jurisdiction previously established during the wardship episode that remain in effect and the date each basis was established; and
- The date of the first judgment establishing jurisdiction over the ward during the current wardship episode.

Finally, a separately entered judgment of disposition based on a post-jurisdiction dependency petition must include the name of the petition or petitions it is based on in parentheses in the document title.

The model jurisdiction and disposition judgments have been revised to reflect the new rule requirements. JFCPD also provided a training for courts on December 10, 2020, explaining the new requirements and related changes in business process. The recording, materials, and revised business processes are available on our website [here](#), under “2020 Petitions and Judgments in Dependency Cases: New Requirements.”

(2) **Oregon Indian Child Welfare Act (ORICWA)**

The dependency hearing forms (shelter, jurisdiction, disposition, review, and permanency) have been revised to address new requirements in ORICWA. All of the hearing forms except the short review hearing and Qualified Residential Treatment Program (QRTP) review form have been divided into two versions: one for ICWA/ORICWA cases, and one for non-ICWA/ORICWA cases. In addition, the protective custody order has been revised and three new forms have

been developed: (1) Settlement Conference Notice to Tribe; (2) Notice of Mediation Offer; and (3) ORICWA Mediation Order. The specific changes are outlined below.

(A) Changes that span across hearing types

- The tribe and Indian custodian are listed as parties.
- Citations to required notices have been updated to reflect emergency and formal notice requirements in Or Laws 2020, ch 14, § 16 (1st Spec Sess) to the tribe, parents, Indian custodian (if applicable), and the Bureau of Indian Affairs (in some circumstances).
- The court's findings regarding the application of ICWA/ORICWA have been modified.
- Orders have been added to address:
 - Oregon Department of Human Services (ODHS) efforts to determine whether the case is subject to ICWA/ORICWA;
 - ODHS efforts to determine the child's tribe, when there is reason to know the child is an Indian child;
 - The parties ongoing obligation to notify the court if they become aware of information that provides reason to know the child is an Indian child.
- A new finding has been added regarding the ODHS efforts to diligently place the child according to the ICWA/ORICWA placement preferences.
- Additional space has been added for the court to make required findings when it determines good cause exists to deviate from the placement preferences.

(B) Hearing specific changes

- Shelter Order
 - If the court orders removal, it must determine why the child's removal or continuation in care is necessary to prevent imminent physical damage or harm to the child. A finding has been added to allow the court to find that the child is not at risk of imminent physical damage or harm, but instead, that continued custody of the child by the parent is likely to result in serious emotional or physical damage to the child. This is for cases in which an expert is available to testify at the shelter hearing and the other procedural requirements of ORICWA and ICWA have been met.
 - Language has been added to order the parties to notify the court immediately if the emergency that necessitated the child's removal is over. If the court receives such a notice, the court is obligated to hold a second shelter hearing to determine if the emergency removal is still appropriate.
- Jurisdictional Judgments
 - Language has been added to reflect the court's findings at jurisdiction must be based on "competent" evidence. The standard of proof remains clear and convincing evidence.
 - When the court determines that the child should be placed in substitute care, the factors to determine the child's best interest provided in Or Laws 2020, ch 14, § 5 (1st Spec Sess) have been referenced.

- Review Judgment
 - The active efforts to reunify finding has been modified to apply to all permanency plans. ODHS has an obligation to provide active reunification efforts even after the permanency plan has changed from reunification to the concurrent plan.
 - Additional findings and orders have been added for when the court finds active efforts have not been provided. Or Laws 2020, ch 14, § 46(7) (1st Spec Sess). These include:
 - Space to determine the period of time active efforts were not provided, and an order for ODHS to provide the services necessary for active efforts;
 - An order to return the child home, unless the court finds that returning the child will result in substantial and immediate danger or threat of danger to the Indian child; and
 - Orders regarding compliance with the ORICWA placement preferences.
 - Additional findings have been added to comply with ORS 419B.449(5) when the court determines the child should be removed from the home and placed in substitute care. Or Laws 2020, ch 14, § 46 (1st Spec Sess).
- Permanency Judgment
 - When the court finds ODHS has not provided active efforts to make it possible for the child to safely return home, a finding has been added to allow the court to specify the length of time that active efforts were not provided. The court may not set a date for a subsequent permanency hearing until ODHS has provided active efforts for the number of days that efforts were previously not provided, unless the permanency hearing is otherwise required under the timelines set forth in ORS 419B.470.
 - When the court changes the permanency plan from reunification, findings have been added to allow the court to find whether continued removal of the Indian child is necessary to prevent serious emotional or physical damage to the child and whether the new permanency plan complies with the ORICWA placement preferences. Or Laws 2020, ch 14, § 38 (1st Spec Sess) (amendments to ORS 419B.476(5)). Note that these new findings appear in the section of the statute that covers what is supposed to be in the court's order (rather than the section addressing required findings), which has led to some debate in the legal community about how it applies.
- Notice of Mediation Offer to Tribe
 - The bill amends ORS 419B.517 to require the court to offer to order mediation between the child's tribe and proposed guardian or adoptive resource before the court can hold a hearing on a petition for guardianship (durable or permanent) or petition to terminate parental rights. The notice should be provided to the tribe, copied to the parties and entered into Odyssey to ensure we have a record of the notice, allowing the court to proceed with a timely hearing.
- ORICWA Mediation Order
 - A new order referring the case to mediation is available. Mediation is conducted through ODHS. A copy of the order should be e-mailed to ODHS as directed on the order.

- Notice of Settlement Conference.
 - A form template has been developed to help courts comply with the new requirement in ORS 419B.890(4) that, prior to scheduling a settlement conference on jurisdiction, guardianship (durable or permanent) or termination of parental rights, the court must provide notice to the child's tribe that includes a description of the settlement process, the procedure to schedule the settlement conference and the date the hearing will occur if settlement is not reached. Or Laws 2020, ch 14, § 41 (1st Spec Sess). The statewide version of the notice is designed to be modified by local courts to describe and accommodate local practice.

(3) Additional Miscellaneous Changes

- The “parties appearing” table located on the first page of the hearing forms has been updated to allow courts to indicate any parties who are appearing remotely. Language has also been added to make it clear that delineating who is appearing remotely is optional.
- The same table has been updated to delete references to deputy district attorney appearances.