

## **CHAPTER 11—Juvenile Court Proceedings**

### **11.010 APPLICATION FOR COURT-APPOINTED COUNSEL**

- (1) An application for a court-appointed counsel and a declaration of financial condition, under penalty of perjury, shall be provided for each affected adult and child on intake or at the earliest practicable other time.
- (2) Counsel may be appointed for a child in any case, but counsel will not be appointed for any adult person unless that person files a declaration of financial condition, under penalty of perjury, and any other information in writing and under oath that the court may require or that the applicant desires to submit relating to the applicant's financial ability to retain counsel.
- (3) On receipt of an application, the court shall promptly rule in the matter. If the application is granted, the court shall promptly appoint counsel and notify counsel of the appointment.

### **11.020 COMPENSATION AND APPOINTMENT OF COURT-APPOINTED COUNSEL**

- (1) Allowance of attorney fees in juvenile proceedings shall be governed by ORS 135.055.
- (2) Unless otherwise specified by written court order, an order for appointment of counsel shall expire when the time for taking an appeal has expired.

### **11.040 ADMISSION OR STIPULATION TO JURISDICTION; DISMISSAL**

In juvenile cases, after having knowledge thereof, the parties must immediately notify the court of an admission or stipulation of jurisdiction or of a dismissal before the jurisdictional or dispositional hearing.

### **11.050 TIME REQUIRED FOR HOLDING DISPOSITIONAL HEARING (Repealed)**

REPORTER'S NOTE: UTCR 11.050 was repealed effective August 1, 2013.

### **11.060 PREDISPOSITION INVESTIGATION**

- (1) If an investigation report is prepared under ORS 419A.012, 419B.112(2)(a), and 419C.300, it shall be made available to the parties at least seven days before the dispositional hearing, unless the parties stipulate to a shorter time.

- (2) If jurisdiction is contested, the court shall not read the report until after jurisdiction has been established.
- (3) If the investigation produces information which the Juvenile Department or other agency preparing the report concludes should not be divulged to the child, parents, or counsel, that information must, on notice to the parties, be separated from the predisposition reports and must be divulged only pursuant to court order. If the court does not issue an order to divulge such information, the court shall set forth the reasons for its action.

**11.070 TEMPORARY SUSPENSION OF VISITATION RIGHTS WHEN  
TERMINATION PETITION FILED**

Parental visitation rights with respect to children who are wards of the court shall not be suspended while a petition to terminate parental rights is pending, unless ordered by the court on good cause shown.

**11.100 SUBMISSION OF PROPOSED ORDERS OR JUDGMENTS IN  
DEPENDENCY AND TERMINATION OF PARENTAL RIGHTS CASES**

- (1) Except as provided in subsection (3) of this rule, any proposed judgment or proposed order submitted to the court for signature must be:
  - (a) Served on each counsel not less than three days prior to submission to the court, or
  - (b) Accompanied by a statement by counsel that no objection exists as to the judgment or order, or
  - (c) Served on a self-represented party not less than seven days prior to submission to the court and be accompanied by notice of the time period to object.
- (2) Except as provided in subsection (4) of this rule, any proposed judgment or order submitted to the court must include, following the space for judicial signature, a dated and signed certificate that describes:
  - (a) The manner of compliance with any applicable service requirement under this rule; and
  - (b) The reason that the submission is ready for judicial signature or otherwise states that any objection is ready for resolution, identifying the reason in substantially the following form:

“This proposed order or judgment is ready for judicial signature because:

“1. ☐ Each party, with the exception of an unrepresented child, has stipulated to the order or judgment, as shown by each party’s signature on the document being submitted.

“2. ☐ Each party, with the exception of an unrepresented child, has communicated approval of the order or judgment to me.

“3. ☐ I have served a copy of this order or judgment on each party entitled to service and:

“a. ☐ No objection has been served on or communicated to me.

“b. ☐ I received objections as attached.

“c. ☐ After conferring about objections, [role and name of party] agreed to independently file any remaining objection.

“4. ☐ Service is not required pursuant to subsection (3) of this rule, or by statute, rule, or otherwise.

“5. ☐ Other: \_\_\_\_\_.”

(3) The requirements of subsection (1) of this rule do not apply to:

- (a) A proposed order or judgment presented in open court with the parties present;
- (b) A proposed order or judgment for which service is not required by statute, rule, or otherwise;
- (c) A proposed order or judgment filed in a juvenile delinquency proceeding, and
- (d) Proposed orders for transport of in-custody parties.

(4) The requirements of subsection (2) of this rule do not apply to:

- (a) A proposed order or judgment presented and signed in open court with the parties present; and
- (b) A proposed order or judgment filed in a juvenile delinquency proceeding.

(5) The certificate required under subsection (2) may be combined with any certificate of service required by another statute or rule.

REPORTER’S NOTE (08/01/2017): Pursuant to UTCR 1.130, computation of Uniform Trial Court Rule time requirements is subject to ORCP 10.

## **11.110 SUBMISSION OF EXHIBITS**

(1) The trial court shall establish a process by Supplementary Local Rule or Presiding Judge Order by which all exhibits offered in juvenile cases will be submitted to the court.

- (2) If the trial court requires counsel to submit exhibits through electronic filing under subsection (1), the following requirements apply:
  - (a) The court shall maintain an exhibit log for each hearing or trial listing each exhibit offered and whether or not it was received. The log shall be maintained in the record of the case.
  - (b) Each exhibit that is electronically filed must comply with the format requirements of UTCR 21.040. The filer shall provide the party role, hearing or trial date and exhibit number or numbers in the comment field. A party may comply with the requirement in UTCR 21.040(4) that certain information be contained in the document filed by including a cover page that provides the required information with each electronic filing of an exhibit or group of exhibits, if they are filed together.
  - (c) Exhibits shall be electronically filed on the day of the hearing or trial or by the end of the next judicial day.

#### **11.120 MAINTENANCE OF EXHIBITS**

- (1) For purposes of maintaining exhibits pursuant to ORS 419A.255(1)(a), the trial court shall maintain in the record of the case all documentary and nondocumentary exhibits offered at a hearing or trial in accordance with Oregon Judicial Department policy and any order entered under ORS 7.120.
- (2) Exhibits in the court's custody shall not be removed from the trial court's control except by stipulation or order of the court, or as otherwise provided in this rule.
- (3) Nothing in this rule shall prevent parties from seeking the release or return of exhibits before the times specified in this rule.
- (4) Upon the filing of a notice of appeal by any party, the trial court will promptly transmit the documentary and nondocumentary exhibits to the appellate court, when requested to do so by the appellate court under ORAP 3.25.
- (5) For purposes of this rule, "documentary exhibits" includes text documents, photos and maps, if not oversized, and audio and video recordings. An oversized document is one larger than standard letter size or legal size.

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

- (1) When a child is already a ward of the court under ORS 419B.100 and ORS 419B.328, any new petition containing allegations under ORS 419B.100 must be filed under the ward's existing dependency case number, unless otherwise permitted under ORS 419B.118.

- (2) If there is more than one dependency case number for the ward for the current wardship episode, a petition filed under subsection (1) must be filed under the first case number established for the ward during that wardship episode.
- (3) In addition to the requirements of ORS 419B.809, ORS 419B.863, and ORS 419B.866, a petition filed under an existing wardship must:
  - (a) Include in the document title the sequential number of the petition before the word "PETITION," e.g., "SECOND PETITION;" and
  - (b) Include in the body of the petition:
    - (i) The date of the initial judgment establishing jurisdiction over the ward during the current wardship episode;
    - (ii) The existing bases of jurisdiction and the date each basis was established in a judgment of jurisdiction and whether each allegation was admitted or otherwise proved; and
    - (iii) Any allegation that remains pending from a previous petition and the title of that petition.
  - (c) An allegation filed in an existing wardship petition must be numbered consecutively to allegations listed in the previous petition.
- (4) A copy of any new petition containing allegations under ORS 419B.100 filed during an existing wardship must be served with a summons in accordance with ORS 419B.815.

#### **11.140 DEPENDENCY JUDGMENTS OF JURISDICTION AND DISPOSITION**

- (1) A judgment of jurisdiction entered under ORS chapter 419B must state how each allegation in the petition(s) under consideration is resolved: whether it is admitted, proved, dismissed, or pending.
- (2) A judgment of jurisdiction entered under ORS chapter 419B that is based on a post-jurisdiction dependency petition filed during an existing wardship must include:
  - (a) In the document title, in parentheses, the title of the petition or petitions it is resolving, e.g., JUDGMENT OF JURISDICTION (SECOND PETITION);
  - (b) The bases of jurisdiction previously established during the existing wardship that have not been dismissed;
  - (c) The date each basis of jurisdiction was established in a judgment of jurisdiction; and

- (d) The date of the first judgment establishing jurisdiction over the ward during the current wardship episode.
- (3) A separately entered judgment of disposition that is based on a post-jurisdiction dependency petition filed during an existing wardship must include the title of the petition it is based on in parentheses in the document title.