

# A Family's Guide *to the* Child Welfare System

Adapted for Cases in Oregon Juvenile Courts



Prepared by The Juvenile Law Resource Center  
A Program of Youth, Rights & Justice, Attorneys at Law  
Updated 2016

## Youth, Rights & Justice

ATTORNEYS AT LAW

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## TIPS FOR USING THE GUIDE

- You don't have to read this guide from cover to cover. You might find some sections more useful than others.
- You can use the table of contents to find the questions that are most important to you. Words in bold are defined in the back of this guide.
- If you find this Guide is too difficult to read and understand, ask someone to help. This could be your **lawyer**, a friend, a family member, or someone else you trust.
- If English is not your first language, you can ask for someone to help interpret or translate this information for you.

## INTRODUCTION AND ACKNOWLEDGEMENTS

You are part of a **juvenile dependency case** because the Oregon **child welfare system** (the **Department of Human Services – DHS**) has brought the case involving your child(ren) to the **juvenile court**. It is important that you understand the **juvenile court** process and your rights.

This guide will answer some of your questions. You should discuss your questions with your **lawyer**. This guide is meant to inform you, not give you legal advice.

A Family's Guide was written to help you better understand how the child welfare and **juvenile court** systems work, to inform you of your rights and responsibilities, and to help answer questions you may have. Reading it can help you become involved and feel empowered. We hope it helps you reach a positive solution for your family.

This Guide covers Oregon law. It was written in May of 2010, updated in April of 2012, it does not include changes in the law made later. You can find links to the laws covering your case in Section 11. This guide is designed for **lawyers** to give to their clients at their first meeting.

If your child is all or part Native American, then special laws may apply to your case that are not covered in this Guide.

The Juvenile Law Resource Center (JLRC) of Youth, Rights & Justice, Attorneys at Law publishes this Guide for Oregon families. It is an adaptation of *A Family's Guide to the Child Welfare System*, a national publication put together by families involved in the **Child welfare system** and a collaborative effort among the National Technical Assistance Center for Children's Mental Health at Georgetown University Center for Child and Human Development, the Technical Assistance Partnership for Child and Family Mental Health at American Institutes for Research, the Federation of Families for Children's Mental Health, the Child Welfare League of America, and the National Indian Child Welfare Association.

Permission to adapt the national guide for use by Oregon families was granted by Kevin W. Enright, Program Manager, National Technical Assistance Center for Children's Mental Health at Georgetown University Center for Child and Human Development.

Special thanks to the Parent Mentors of Parents Anonymous, a Program of Morrison Child Family Services, who collaborated on the original version of this Guide. We also thank Dover Norris-York for her work in preparing this Guide, to Kelsey Meredith, Law Clerk, for the 2012 update, and to the parent mentors, who shared with us their stories giving a voice to their experience being a parent in a **dependency case in juvenile court**.



# Part 1

## What You Need to Know First

## **URGENT INFORMATION FOR PARENTS OF CHILDREN WHO WERE JUST REMOVED**

### **Get a lawyer.**

- If the court decides you cannot afford a **lawyer**, it will provide one for you free of charge. If there is no **lawyer** for you in court, you can ask to postpone the hearing, or have a continuation of the hearing until you have a **lawyer** there to represent your interests. If you make enough income, you may be required to pay some of your **lawyer's** fee.
- If the court decides you can afford a **lawyer**, ask for a list of **lawyers** who handle these cases and ask the court to postpone or continue the hearing until you can hire a **lawyer**.

### **Limit what you say to the court or anyone who is not your lawyer.**

- Anything you say to anyone (except your **lawyer**) in court or out of court can be used against you in both the **juvenile court** case AND any ongoing or new criminal cases.
- If **CPS** found you did something that is a crime, then the state might also bring criminal charges against you.
- Even if you do not have criminal charges, what you say to caseworkers and treatment providers may affect your case.

**\*\*\*\*IMPORTANT\*\*\*\***

**Do not sign any papers without talking to your lawyer!**

### **Challenge the reasons DHS gives for removing your children.**

- At the first hearing, the shelter hearing, **DHS** will tell the court why it removed your children and why they need to stay out of your care.
- Explain why the problems **DHS** found do not really exist.
- If **DHS** found problems that do exist, explain how you can protect your children so that they can live with you without being harmed.

### **If the court does not return your children, then say who you want your children to live with temporarily.**

- If you have friends or relatives who can care for your children, have them come to the hearing, if possible.
- Have the phone numbers and addresses of friends or relatives who can care for your children.
- Explain why your children should be placed together in the home where they are sent to live.

## If the court does not return your children, then ask for visits.

- Visiting your children as much as possible is very important; ask the court for the most visits possible.
- Be on time for all visits. Go to Part 2, page 20 for Tips for Visiting Your Child. Also included in this folder is Issue 19 (summer 2011) of Rise Magazine in which parents in the **Child welfare system** discuss and give pointers on **visitation**.
- Go to Part 2, Section 3 for more information about the shelter hearing.

## YOUR RIGHTS AS A PARENT IN A DEPENDENCY CASE IN JUVENILE COURT

Your **lawyer** wants you to know that you have important rights in this case. Here are some of your rights. Talk about them with your **lawyer**.

1. You have the right to adequate legal representation by a competent **lawyer** in your **juvenile court** case because of the complexity and serious nature of these cases. The judge will decide if you qualify for a **lawyer** to work with you at no cost to you. If you do not have a **lawyer** at court, ask the judge for a **lawyer**.
2. You have the right to know what problems led **DHS** to remove your child from your home. The problems are called **allegations** and are written down in a **petition** that must be given to you.
3. Your **lawyer** should be given all papers that **DHS** makes in your case, and you should ask your **lawyer** to show you the papers and give you a copy of those you can have, if you want one.
4. You have the right to a hearing within 24 hours (not including days the court is closed) of removal of your child to decide if your child can be safely returned to you.
5. You have the right to a trial on the **allegations** in the **petition**.
6. You have the right to have a fair judge make decisions in your case. Judges must follow state and federal laws to make decisions based only on the information they hear and read in your case (**evidence**); and they do not work for **DHS**, the District Attorney, or the Attorney General.
7. You have the right to spend time with your child in visits after the **shelter hearing**, unless the judge decides that, even with supervision, you are too much of a danger to your child.

8. You have the right to **services** to reunite your family, including the right to apply for any **services** that **DHS** child welfare provides. You also have the right to refuse **services** that have not been ordered by a court.
9. You have the right to be fairly and courteously treated by **DHS** staff and the right to non-discriminatory treatment regardless of your race, color, religion, national origin, sex, sexual orientation, age, citizenship, political affiliation, language, marital status, or disability.
10. You have the right to have information presented to you in a language or format you can understand, including documents in your language, braille, or oral presentation, with an **interpreter** if needed.
11. You have the right to **testify** in court, which means you can tell the judge your side of the story while everybody respectfully listens. If you do **testify**, you will be asked questions by the other **lawyers** in the case, who may try to show that you are not telling the whole truth about what happened.
12. You have the right to bring people to court who can **testify** about what happened.
13. You have the right to appeal many court decisions by asking your **lawyer** to file a **notice of appeal** within 30 days of the decision you want to have reviewed by the Oregon Court of Appeals. Your **lawyer** must file the notice within 30 days.

Throughout this Guide you will find brief stories called “voices.” The voices in the Guide are all those of real people, mostly Oregon parents, who have shared part of their own story and whose job is to support parents in **dependency cases** through the Parent Mentor program. Information about that program and others that can help you are listed in Section 11 of this Guide.

In this folder you will also find **My Case Record**. This is several pages on which you can keep important information for yourself and information that you should share with your attorney. There are pages for names and contact information for people involved in your case, pages to keep information about visits with your child, and pages for you to keep information about your contacts with people and agencies concerning your case. You can make more copies of these pages, or ask your **lawyer** for copies.

# Part 2

## Working with Your Lawyer: The First Part of Your Case

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## Section 1: Child Welfare Cases in Juvenile Court

The **child welfare system** in Oregon is made up of programs run by the Oregon **Department of Human Services (DHS)**. **Child Protective Services (CPS)**, **in-home services** for families, and Foster Care are three programs in **DHS Child Welfare**. The child welfare cases that **DHS** brings to the **juvenile court** are called **juvenile dependency** cases.

### What is the role of DHS in abuse and neglect cases?

The **DHS** is responsible for:

- responding to reports from people in the community who think that children are being **abused** or **neglected**
- helping families solve the problems that cause **abuse** or **neglect**
- helping children to be safe and secure
- preventing separation of children from their families
- working with families so children removed from home can safely return
- ensuring that children receive adequate care while they are away from their families
- finding another suitable permanent home for children who cannot return home

### What is abuse?

**Abuse** can include any physical harm to a child that is not accidental. Any kind of sexual behavior with a child is **abuse**. **Abuse** can also include mental injury in which a parent's cruelty to the child causes a substantial harm to the child's ability to function.

### What is neglect?

**Neglect** can include failing to give a child enough food, clothing, or safe shelter to keep them safe from harm. Parental issues with drug or alcohol **abuse** often lead to charges of **neglect**. Another example of **neglect** is when children are harmed by **domestic violence** between the parents or other adults. **Neglect** may also be charged when parents fail to adequately stop or protect their child from physical or sexual **abuse** that they should know is happening.

## What does Child Protective Services (CPS) do?

CPS receives reports about **abuse** and **neglect** of children from community members, some of whom are mandated to make such reports. CPS assesses whether there is enough information from the report to cause a further **investigation**. In some cases there will be no further action or **voluntary services** will be offered to the family to avoid a court case being filed.

## What is the role of the Juvenile Court in DHS cases?

Not all **DHS investigations** end up as **juvenile court** cases. Some **investigations** are closed without any action. In other **investigations**, **DHS** may ask the parent to work with the agency voluntarily to address the problem that led to the **CPS investigation**.

When **DHS** believes a child is being neglected or **abused**, and a **voluntary** case won't work, **DHS** begins a legal case with the **juvenile court** by giving the court a **petition** stating the information **DHS** has about the family's situation and why the child's safety is in danger. This happens every time a child is removed from home and sometimes happens while the child stays at home.

It is the job of the **juvenile court** to protect the rights of the family by deciding whether the information from **DHS** is enough to allow the child to be temporarily placed in foster care. After the **investigation**, there is a trial or a hearing at which the **juvenile court** determines whether **DHS** should continue to be involved with the family and whether the child's **placement** in foster care should continue. Even when the child is returned home, the **juvenile court** can continue the involvement of **DHS** and the court in the family's life.

## What do lawyers do?

A **lawyer**, also referred to as an attorney, advises a **client** about the law and speaks for the **client** at court and in other meetings. **Lawyers** have to go to law school and be licensed by the state in order to work as a **lawyer**. You can hire a **lawyer** to represent you in your **juvenile court** case. If you do not have enough money to hire a **lawyer**, ask the judge to appoint one for you at no cost. There may be a **lawyer** already assigned to work with you and another **lawyer** representing your child. Each case should have a **lawyer** for the child and for each parent.

In most counties, **lawyers** from the Oregon Attorney General's office represent **DHS**. In some cases, the District Attorney is involved early in the case to represent the State's interests, and may work together with the **DHS** case worker.

## What is my lawyer's job?

See Section 5 on working with your **lawyer**. Your **lawyer** must give you legal advice and take

action to help you with your case. The final decisions on what positions you take in the case are always your decisions, but you should listen carefully to your **lawyer's** advice before you make up your mind. In working toward your goals, your **lawyer** uses his or her expertise to decide what strategies to use during your case. Your **lawyer** works for you and only you—not the **juvenile court** or **DHS**. Your **lawyer's** only concerns are your rights and interests.

### Who works for the interests of my child?

Usually, someone will be appointed to represent your child's legal interests. This is usually a separate **lawyer** for your child. If your child has not been appointed a **lawyer**, you may want to talk to your **lawyer** about asking the court to appoint one. The child's **lawyer** will follow the child's wishes, or determine the child's best interests. If your child is younger, the **lawyer** will independently decide what your child would want the **lawyer** to advocate for if s/he were old enough to give the **lawyer** direction. The **lawyer** will then work to advocate for those goals. If you have more than one child involved in a case, they may all be represented by one **lawyer**, or there may be more than one **lawyer** for each child in the case.

### Who are court appointed special advocates (CASAs) and what do they do?

The **CASA** program trains community volunteers to speak up in court for what they believe to be in the best interest of children who have been **abused** or neglected. The **CASA** is charged with telling the judge what he or she believes is in the best interests of your child. The **CASA** will want to talk with you about the case – make sure that you have discussed this with your **lawyer** first.

### Who are the parties to the case?

The parties are the people who have a right to participate in the case – the children, all of their parents, the State of Oregon represented by **DHS** and sometimes a **lawyer** from the District Attorney's or Attorney General's office. When a **CASA** is involved, he or she also is a party. The court may also allow others to become parties in the case. Each **party** may have a **lawyer** to represent their interests.

### What is a Citizen Review Board (CRB)?

The **CRB** is a small group of trained volunteers, appointed by the Chief Justice of the Oregon Supreme Court, who review the progress of cases of children who have been removed from home. Findings and recommendations from the **CRB** are forwarded to the court that has **jurisdiction** over the child. **CRB** review may take the place of a court hearing, and if the judge, after reading the findings and recommendations of the **CRB**, believes that a hearing is necessary, then the judge may order that one be held.

## SECTION 2: THE BEGINNING OF A CASE

If reports cause **DHS** to have concerns about a child's welfare, then a **CPS** worker will talk to the child, parents, or other persons to find out more about the situation. If the **CPS** worker thinks the child is not safe, then the child will be removed immediately. **DHS** has **CPS** workers involved just at the beginning of a case; after that an ongoing caseworker from the **DHS** office will be assigned to work with your family. Removal of a child during, or at the end of, an **investigation** is a very serious and painful event for both the child and the family.

### **Will there be a court hearing if my child is removed from my home during a DHS investigation?**

Yes. Unless you have agreed to work with **DHS** on a **voluntary** basis or agreed to have your child placed outside of your home, **DHS** may make an emergency removal of your child, but a court hearing must be held within 24 hours – not including days the court is closed. This is called **protective custody**. **DHS** must file a **neglect** or **abuse petition** with the **juvenile court** asking for this **protective custody** to be continued. The hearing, which must be held within 24 hours, is called the **shelter hearing** in most counties.

### **Does the fact that I had a hearing in court mean that CPS found my child's safety was in danger?**

Yes. If you have been given this Guide, it is because a case was started in **juvenile** court. That happens when the **CPS** worker has found enough information to have **reasonable cause** to believe that your child was neglected or **abused**, and has stated those claims as **allegations** in a **petition** filed with the court.

**Warning: Anything you say to anyone (except your lawyer) in court or out of court can be used against you in both the juvenile court case AND any ongoing or new criminal cases. ALSO, if CPS found you did something that is a crime, then the state might bring criminal charges against you.**

You may already have criminal charges against you in a criminal case that involve some of the same behaviors listed in **allegations** in the **petition** by **DHS**. For example, your criminal case may include **allegations** of prostitution, possession of drugs, or violation of a restraining or stalking order, and the same or similar **allegations** may be in the **petition** given to the **juvenile** court.

You have a right to remain silent during any part of a criminal **investigation** or case. In the **juvenile court** case, always talk to your **lawyer** about what you should or should not say if there are or could be criminal charges against you. Your **lawyer** will help you tell the judge that you want to use your right to be silent about some of what happened.

Even if you do not have actual or potential criminal charges, what you say to caseworkers and treatment providers may affect your case. Talk to your **lawyer** about what you should or should not say. Always talk to your **lawyer** before signing any papers.

## *NeCola's Voice*

*In my first experience with **DHS**, I went to the courthouse to find out what the **allegations** were against me. I only knew of two (domestic violence and drug abuse). During the hearing, the worker read off the two **allegations** I knew of and then said three or four more. The way the **allegations** were broken down into so many parts made me feel defeated. I was baffled, scared and felt like a failure as a mom. Because I felt overwhelmed, it was hard to fight for my kids.*

*Now that I am a parent mentor, I see that lawyers can help clients understand how the **allegations** are broken into parts when they are listed in the petition. That helps parents be prepared, both mentally and emotionally, for what will happen in court. Understanding what is happening helps the parents I work with feel more hopeful and open-minded to work towards healing their families.*

## SECTION 3: THE FIRST HEARING

The first hearing is in court in front of a judge. Each county in Oregon has its own way of handling cases and uses different names for the hearings in **juvenile** cases. Many counties call these shelter hearings. At each hearing, the day and time of the next hearing is scheduled. Write that day and time in your calendar and on the note pages at the end of this Guide. Ask your **lawyer** to explain exactly what will be decided at the next hearing and write that down so you will remember because there are weeks or months between each hearing.

### Who will be at the hearing?

You have the right to be at all hearings in your case and you should do all you can to be on time. Ask a friend or family member to come with you to give you support. When you enter the courtroom the judge's clerk will be there and can tell you where to sit. The judge will wait for everybody to arrive before coming into the courtroom. **DHS** will have a case worker there to speak to the judge. **Lawyers** may be there to represent you, your child(ren), and any other parents of the children in the case. There may be a **lawyer** from the Attorney General's or the District Attorney's office there to represent **DHS** and other state interests. If the children involved are older, then they may be there.

### *Jennifer's Voice*

*I do not remember my first court hearing or what it was like. It was all a big blur. I do not remember much interaction with my lawyer at all either. That hearing and ones after that all happened at the juvenile courthouse, which is miles from the downtown county courthouse. Much later in the case, there was a hearing on terminating my parental rights and I showed up at the juvenile courthouse on time to learn that the hearing was at the downtown courthouse. I went there and was late to court and it was a default on my part and my parental rights to my children were terminated.*

*I learned the hard way that parents need to get clarification from the judge and their lawyer on where the hearing or trial will happen. It is very important to get clarification on anything and everything if you are ever unsure of what is going on, what you are supposed to be doing, or where you are supposed to be and when. Always ASK!*

### **Will I have a lawyer at the hearing?**

It depends. The state recognizes that as a parent you have important rights and that **lawyers** can help protect those rights. Some counties appoint a **lawyer** for parents at the beginning of the hearing or even a little before the hearing starts so you have some time to talk. Other counties will appoint a **lawyer** during the hearing and give you the name and phone number of your **lawyer**. Call your **lawyer** as soon as possible to set up a time to meet and talk about your case. If there is no **lawyer** representing you at this hearing, then ask the judge for a **lawyer**.

### **What happens at the shelter hearing?**

**DHS** shares its findings and gives the judge its opinion about whether the child should be returned home or not. The judge will ask you for your opinion about if your child should be with you or stay in care longer. If you have not been able to talk with your **lawyer** before the hearing, you can ask for a few minutes to talk during the hearing. If you do not have a **lawyer** at the hearing, then you can tell the judge about why you disagree with the **DHS** findings and how your family and friends can help you and your child live together safely.

### **Why am I being asked about Native American heritage?**

A federal law, the Indian Child Welfare Act (ICWA), provides special rules when a child is an enrolled member of an Indian Tribe or Alaskan Native Village or eligible to be enrolled. If your child is an enrolled member of a tribe or may be eligible for enrollment, be sure to tell your attorney before the shelter hearing. The ICWA sets a higher standard for removal of Indian children.

### **What does “protective capacity” and “protective action” mean?**

A parent’s “**protective capacity**” is how well a parent can protect his or her children from harm. A focus of this hearing will be deciding if you can protect your child from risks of harm in your home. Tell your **lawyer** how you can keep your child safe and, if needed, what actions friends and neighbors can take to help. All of the ways you work to keep your child safe are “**protective actions**.” The **DHS** worker will tell the court if there are **protective actions** you can do in your home and whether they are enough. The court will listen to your **lawyer** share what you think needs to happen, if anything, and the judge will decide if “**protective action**” or a safety plan is needed for your child to live at home.

## What is a safety plan?

A safety plan sets out agreements that will allow a child to remain safely in the parents' home. The safety plan may use "safety service providers", your friends or family or providers from community agencies, who will be present in your home to help insure safety.

## What gets decided at the hearing?

The judge decides whether **DHS** made a mistake or whether the findings show a need for the state to further investigate and monitor your family. If the judge continues the case at the end of the hearing the judge can, and generally does, give temporary legal **custody** called "TC" to **DHS**. When **DHS** has TC, **DHS** takes over making decisions about the child that parents generally make. The judge decides whether your child should live temporarily out of your home, in a relative's home or in a foster home.

## Can the judge order DHS to return my child?

At any hearing, a judge can order the return of a child if there is not sufficient reason for the child to be out of his or her home. Even if your child is returned home, the judge may still continue your case and order you to be involved in **services** for you and your child.

## What can I do at this hearing to help my child?

Tell your **lawyer** about family members or close friends who can take care of your child or help you take care of your child in your home. The law requires **DHS** to look for family members who can act as a **foster family** to your child. Ask the judge to order **DHS** to provide you with times to telephone and visit your child.

For more information on **visitation** from the perspective of parents who have been involved in Child Welfare go to: <http://www.risemagazine.org>. A copy of an issue of Rise Magazine devoted to **visitation** is included in this folder.



### STAFF TRAINING

## STAFF PERSPECTIVE: Meeting Parents Where They Are - Accepting my own feelings helped me accept the parents I work with

May 30, 2016 by Peta-Gaye Woodbine

### New Issue



## SECTION 4: WHERE CHILDREN LIVE DURING A CASE

During the case, your child may live with you or the other parent. When the **court orders placement** out of your home, then **DHS** finds another place for them to live during all or part of the case. This is called an out-of-home **placement** or substitute care, and includes any of the children's relatives who are willing to be a foster parent for your child or a family you do not know.

### Who will my child live with?

If **DHS** removes your child, state law requires **DHS** to find out first if your child can live safely with a relative. **Placement** with a relative is often called **kinship care**. This can happen if the relative and **DHS** agree that it is a good plan and a safe **placement** for your child. **Placement** with a relative can help you, the parent, by possibly allowing for more frequent **visitation** and increasing the likelihood that you will get your child back.

If **placement** with a relative is not possible, your child will likely go to a foster home or a temporary children's shelter. In some places, the first **placement** for a child may be a short-term group residence. In other places, children go directly to the **foster family** who will care for them until they can return home.

### Will my child be sent far away to live?

**DHS** must try to place children as close to their own homes and communities as possible.

### What if my child has special needs?

All foster parents must meet certain standards set by the state to help ensure that children will be safe and cared for. Most foster parents have been trained to understand the special needs of all children who live away from their families.

Children with very intensive treatment needs, may be placed immediately in a place that can meet their high needs. This could be a therapeutic foster home, a residential treatment center, or some type of medical placement. Group care facilities must be licensed and staff must meet standards set by the state.

### Can I have a say in where my child lives?

You can make suggestions. If you have relatives or very close friends who can provide a safe home for your child, be sure to tell the caseworker, your **lawyer**, and the judge about them as early as possible. Even if your relatives live out of state, it is still possible for them to be considered. It is the job of **DHS** to find the best place for your children to live while in temporary care.

## Will my children live together?

If more than one of your children is being placed in foster care, and it is best for them to stay together, then **DHS** should place them together. Sometimes this is not possible for a variety of reasons. For example, there might not be a foster home large enough to care for all of your children, or one of your children might need to be placed separately where she or he can get special treatment. If you believe it is important for your children to be placed together, explain that to your **lawyer**.

## Who makes decisions about my children when they live in foster care?

Your child's caseworker and **foster family** will do their best to care for your child. They will make decisions about school, meals, and special **services** your child needs. You will continue to influence many of the decisions about your child, unless the judge directs otherwise. Your continued participation in the **case plan** is one way for you to have influence. You should be able to spend time regularly with your children unless the judge determines that, even with supervision, you are too much of a danger to your child. You should ask to attend medical appointments, school meetings, and other important events for your child, so you can continue to be part of important decisions and events in her life.

## TIPS FOR CHILD PLACEMENT

- If your child has been removed from your home, tell everyone in the case about family members or others who can help you safely care for your child in your home.
- If you have relatives or very close friends who can provide a safe home for your child, be sure to tell your **lawyer** about them as early as possible.
- Even if your relatives live out of state, it is still possible for them to be considered.
- If you believe it is important for your children to be placed together, explain that to your **lawyer**
- When your child moves into an out-of-home placement, be sure that he or she takes some things from home to help feel more comfortable in the new placement, for example, some very special toys, pictures, favorite clothes, or other treasured items.
- Let the agency worker know what works to help calm and reassure your child, especially during this difficult time.

## SECTION 5: WORKING WITH YOUR LAWYER

Usually, you begin working with your **lawyer** at the start of a case and use the same **lawyer** for the whole case, which may last over a year. Your **lawyer** is there to help only you and does not work for **DHS** or the court. You are your **lawyer**'s client. Your **lawyer** should act professionally and treat you with respect. To help you, your **lawyer** needs information from you about your child and your family. View your **lawyer**, his or her assistants, and yourself as one team working together to have the case end with the outcome you want.

### When will I meet my lawyer?

If you did not meet your **lawyer** at the first hearing, then call the phone number the court staff gives you to set up a time to meet with your **lawyer** as soon as possible. If you did meet your **lawyer** at the hearing, you still need to set up a time to talk more about your case. Sometimes **lawyers** are in trial on another case and will not be able to meet with you for several days. Get a calendar to write down the day, time, and place of your meeting with your **lawyer**.

### *Mark's Voice*

*I first met my lawyer while I was in jail. My children went into foster care because my home was raided by the police while I was in jail and DHS felt my children weren't safe with their mom. My kids were placed in foster care with their grandparents. Because of my criminal background, I didn't really have much faith in a court appointed lawyer. My lawyer came and met me in jail; she explained my rights to me and the fact that my upcoming hearing was about several different allegations against me and my wife. She said that I had the right to be present at the hearing and, if I wanted, she would have me transported there. She explained what the allegations against me were and that I could either: admit the allegations and do what DHS and the courts asked, or I could go to trial and contest the allegations. At the hearing, I admitted some of the allegations and my lawyer told the court that some of the allegations weren't true. My lawyer was the first person that I told what life was like for my family. By telling her my story my lawyer was able to help me start helping myself.*

## What will my lawyer want to know?

Your **lawyer** will want you to talk about each child and parent in your family, including information about their personality and daily activities. It is important to tell your **lawyer** about any difficulties you have with alcohol, drugs, mental illness, domestic violence, and/or ability to provide food and housing for your children. Bring phone numbers and addresses of people who know you and/or your children, such as a community health nurse, teacher, boss, or landlord. Your **lawyer** may want to talk to those people or hire an investigator to ask those people questions. This information helps your **lawyer** give **DHS** and the judge the full picture of your family.

## Is what I tell my lawyer private?

Information you tell your **lawyer** is confidential or private if only you and your **lawyer** are there when you talk. If anybody is with you, then the **lawyer-client** privilege does not apply to keep what you say between just you and your **lawyer**. This is why your **lawyer** will ask to talk with you alone. Your **lawyer** will keep information you give him/her confidential unless you agree it should be disclosed in order to achieve your goals in the case.

## If I leave a message for my lawyer, when will I hear back?

In working with your **lawyer**, it helps to understand that the court assigns your **lawyer** many other clients, often too many clients, and he or she is very busy. It may take a day for your **lawyer** to call you back when you leave a message. It is your **lawyer's** job to make enough time to work with you on your case, but he or she cannot spend time on your case every day, and there may be weeks when your **lawyer** is in a trial for another **client** and cannot spend any time on your case.

## What will my lawyer do at the beginning of the case?

Your **lawyer** will explain the legal process and **answer** questions you have. Together you will make a plan to reach the outcome you want. This may involve deciding what changes you will make in your life and what steps you will take to make those changes happen. Or it may be that there are no changes to be made.

## What does the lawyer do with the plan we made?

If you ask your **lawyer** to share your plan with **DHS**, then he or she can ask them to adopt all or part of your plan as their plan. In talking with **DHS** and at hearings, your **lawyer** will explain why your plan is a good one and should be used as the service agreement in the case.

## Will DHS use my plan?

The caseworker will write up a plan also and then work with you and your **lawyer** to try to end up with a plan that everybody agrees will lead to needed changes. The law requires **DHS** to have two plans, one is the **primary plan** and one is a back-up plan, called a concurrent plan, in case the **primary plan** does not happen. If you want your child to grow up living with you, then **reunification** should be the **primary plan**. The caseworker will need to look for relatives or other families who could raise your child if, during the next year, you do not show the judge you have taken care of the safety risks and are able to have your child live with you. You will hear the judge ask the caseworker about the concurrent plan; that does not mean **reunification** is no longer the **primary plan**. In most cases, **adoption** is the concurrent plan.

## TIPS FOR WORKING WITH YOUR LAWYER

- Talk with your **lawyer** about the names used in your county for the hearings, the timeframes, and the purpose of each hearing.
- Your **lawyer** should do the following:
  - meet with you before every hearing and represent your interests in court
  - gather information that supports your position
  - help you understand your rights
  - let you know the time and place of each hearing
  - tell you what to expect at each hearing
  - explain child welfare laws that apply to you and your family.
- Talk with your **lawyer** about what you want to be said in the hearing. If you want to speak yourself, be sure that your **lawyer** knows this and arranges for you to have your say.
- If you believe that someone is saying things in court about you or your family that are not true, let your **lawyer** know.
- If you are confused about what took place in court, be sure to ask your **lawyer** to explain it to you.

## Do I need to file an answer?

In some counties, the parent must give the court a written response to the claims made by **DHS**, called an **answer**. Your **answer** lets **DHS** and the judge know early in the case which claims you agree with and which you think are not true. Your **lawyer** will write your **answer** and file it with the court after reviewing the **DHS petition**, which is the document used to state **DHS**' claims, called **allegations**. Some counties will have a preliminary hearing for parents and their **lawyers** to present their **answers**.

## What if I think the DHS findings are wrong?

You decide whether you agree that any or all of the reasons in the **petition** did exist in your home at the time your child was removed. Your **lawyer** will advise you whether the **allegations** are legally enough for the court to have jurisdiction. If you think that none of the reasons were true at that time, or were not legally enough for the court to take **jurisdiction**, then you may decide to have a trial at which your **lawyer** will present **evidence** and explain your reasons to the judge for why the **juvenile court** should not have **jurisdiction** over the case. If you agree that some of the reasons did exist in your home at the time of removal, but other **allegations** in the **petition** are not true, your **lawyer** may be able to negotiate to dismiss those **allegations**.

## How will the case be different if I challenge jurisdiction?

When you challenge **DHS**'s right to be involved in your family, then your **lawyer** and the **lawyer** for **DHS** will spend several weeks gathering information and preparing for a trial before the judge so that the judge can decide whether there is enough **evidence** and if the judge should take **jurisdiction** of your child(ren). When you do not challenge jurisdiction, then there will be a hearing at which you will make **admissions**. If **jurisdiction** is established, either after **admissions** or a trial, then there will be review hearings where you can share with the judge how well you are making progress. You can ask to begin classes, counseling, and visits at the first hearing, even if you disagree that any of the **allegations** are true.

# Part 3

## Working with Your Lawyer: The Next Part of Your Case

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## SECTION 6: THE NEXT COURT HEARING

There will be a second hearing within 60 days after **DHS** has filed its **petition**. Like the first hearing, different names are used in Oregon counties for this court hearing. Usually it is called a jurisdictional or a **dispositional** hearing (a hearing about how the court is going to **proceed** once there is jurisdiction), although some counties have separate hearings for **jurisdiction** and **disposition**. Also, some counties hold a hearing between the **shelter hearing** and this hearing. In some counties there will be a settlement conference before the **jurisdiction** hearing. Finally, in some cases, there is a trial instead of a hearing on jurisdiction. At each hearing, the day and time of the next hearing is scheduled. Write that day and time in your calendar. Ask your **lawyer** to explain exactly what will be decided at the next hearing and write that down so you will remember because there can be weeks or months between each hearing.

### What happens next in court?

It depends on whether or not you agreed that **DHS** and the court need to be involved with your family, and the court now has **jurisdiction** over your children. The hearing is for the judge to hear whether the parties have agreed to **jurisdiction** and to a service agreement. If you deny all of the **allegations** in the **petition**, then the judge and **lawyers** will find a few days for a trial to happen about a month after the hearing. If you have agreed to jurisdiction, the hearing will be used as a time for the judge to hear **admissions** from you about what you think gives the court **jurisdiction** over your family, what has been going on, and what the parties want for services.

### My case has separate jurisdictional and dispositional hearings, how are they different?

The focus of a jurisdictional hearing is on whether Oregon law requires the **juvenile** court to be involved with your family. The focus of a **dispositional** hearing is on the **case plan** and service agreement and deciding where the child should live while the case continues.

### Who will be at the hearing?

Parents have the right to be at all hearings and you should always be on time. Your **lawyer** will likely ask you to arrive early so the two of you can review what will happen. **DHS** will have a worker there to speak to the judge and a **Court Appointed Special Advocate (CASA)** may be there. Older children in the case sometimes come to the hearing. **Lawyers** may be there to represent you, your child(ren), and any other parents of the children in the case. There may be a Department of Justice **lawyer** or a District Attorney at the hearing. These are all of the people who have the right to speak to the judge at the hearing. Because hearings in court are open to the public, any person interested in the case may come. Often grandparents

and foster parents will come and the judge may ask them if they have information to add. Ask a friend or family member to come with you to give you support before, during, and after the hearing.

### The judge asked DHS about the concurrent plan, what is that?

**DHS** is required by law to work on a backup plan for the child's future in case she or he cannot return home. **DHS** caseworkers need to report to the judge on what work they have done on the concurrent plan.

The reason for concurrent plans is to shorten the amount of time it takes for children to find permanent homes if they do not return to their parents. It also reduces the number of placements for a child. Here are some examples of how concurrent planning works:

- A child in foster care lives with a family (usually a **foster family** or a relative) who must be willing to work with the parents to help the child return home. This family also may be willing to become the child's permanent family, through **adoption** or legal guardianship, if she/he cannot return home.
- A child might be placed with a "pre-adopt" family who would like to adopt the child, if she or he cannot return home.

### Can the judge order DHS to return my child?

At any hearing, a judge can order the return of a child if there is no reason for the child to be out of his or her home. Even if your child is returned home, the judge may order you to be involved in **services** for you and your child.

## TIPS FOR CONCURRENT PLANNING

- It is important for you to know how the concurrent planning process works so you can try to influence what the plan will be.
- If you are uncertain of what this process means for you and your child, be sure to get **answers** from your **lawyer**.

## SECTION 7: JURISDICTION TRIALS

You can ask for a trial to decide if the claims **DHS** makes at the beginning of the case are true. A trial is where **evidence**, such as testimony of witnesses and documents, is presented and the judge decides whether the state has proved the case.

### Who decides if there will be a trial?

You do. Every parent has a right to a trial. In a case with one child, it may be that the mother asks for a trial and the father does not. Each parent involved makes their own decision about wanting a trial.

### Are there trials in most cases?

It does not matter what happens in most cases; what matters is your case and if you believe **DHS** is wrongly involved with your family. Often, it is clear whether **DHS** made a mistake or not and the judge can decide that in a hearing. However, often the families **DHS** gets involved with really do need some classes and counseling to help with difficulties in parenting because of drugs, domestic violence, or mental illness. Often treatment and classes work to help parents make needed changes. Each family is different and all that should matter to you is what is best for you and your child(ren).

### If there is a trial, what happens before the trial?

A trial takes weeks and sometimes months to prepare, and then the trial itself usually takes two to four entire days in court. Parents wanting a trial may need to meet with a **psychologist** or **psychiatrist** for an interview and tests so that person can give their opinion of the parent's psychological and mental health and abilities. Records of your past criminal history, past mental health history, or involvement with **DHS** will be found and used. Information about the events that caused **DHS** to become involved with your family will be collected from people as well as information about all actions you have taken since the case began.

### What happens at trial?

As the parent, your living situation and lifestyle will be discussed in detail in court and you will be called on to **answer** questions about your life and decisions that have any relation to your child's well-being. Unlike criminal trials, a parent can be required to **testify** at trial and it is likely the attorney for the state will call you to **testify** at the beginning of the trial. Other people will speak and **answer** questions also, including caseworkers, counselors, teachers, foster parents, and your child if he or she is old enough to share useful information.

## What are some things my lawyer should do before the trial?

There are many things that a **lawyer** will do to prepare for a trial and while a trial is happening. **Lawyers** should file motions, which are ways of asking the judge to take action in your favor, such as limiting the use of unhelpful information at trial. Motions should be filed before the trial, and sometimes they will need to be filed during the trial, as well. Based on the results of the motions and the **investigation**, your **lawyer** will present information, called **evidence**, on your behalf, and challenge the **evidence** of the other **lawyers**. To do this, your **lawyer** will make arguments to the judge, as well as object to the arguments and **evidence** of other **lawyers**. Your **lawyer** will discuss with you what will happen at your trial. If you have questions, be sure to ask your **lawyer** so that you are prepared for what is happening.

## What gets decided at a jurisdiction trial?

The judge decides whether **DHS** must be involved in your family by looking at Oregon laws and the facts presented at trial. If the judge decides that **DHS** involvement is required by Oregon law, then your child may or may not live in your home while you and your child do **services** such as classes and counseling. If the facts presented show that Oregon law does not require **DHS** involvement, then your children will be returned to your care and you will not need to do anything.

### *Jacquelyn's Voice*

*By attending drug treatment and parenting classes, I came to terms with the pain that led me to drugs—my traumatic, abusive childhood and my husband's death. My children returned home angry, but I was a stronger person and was able to rebuild my family. Like me, many parents become involved with the system not only because they lack parenting skills or life skills, but also because trauma contributed to the destruction of their lives and parenting abilities. Parents involved in the system often have a past history of trauma like physical and sexual abuse, and they experience trauma again when separated from their children.*

## SECTION 8: CASE PLANS AND SERVICES

### What does “services” mean?

**Services** is the term for any activity that **DHS** uses to meet the needs of children and parents. Examples include counseling, drug treatment, food stamps, and classes such as anger management, parenting, and life skills. **DHS** caseworkers can sign you up for these programs, by making referrals. When your child is living with a **foster family**, the time you spend with him or her is called **visitation** or **parenting time**, and is a service because the caseworker works with the **foster family** and you to set a time and place for that to happen.

### What is a case plan?

It is the written statement of what needs to happen for **DHS** to no longer be involved with your family. When you become involved with the child welfare system, you will be involved in making a written **case plan**. This plan is an agreement between you and **DHS**. This Guide uses the words “agreement” and “plan” when talking about this, it is also called an action agreement. You will be asked to sign the **case plan** and you will receive a copy of the **case plan** to keep. If English is not your first language, ask for a written copy of the plan in your first language.

### Who puts together the case plan?

It is the job of **DHS** to make a **case plan**. You, the parent, should always be involved in developing the **case plan**. It is also important to include children who are old enough to participate. **DHS** will ask you to participate in appointments with the caseworker and a variety of **assessments** and meetings to help them develop the **case plan**. You should let your **lawyer** know what appointments and meetings you have been asked to attend with **DHS**. Your attorney may need to attend with you. At the hearing the Judge reviews the **case plan** and can add or delete **services** from the plan.

### Is the case plan just a list of what I need to do?

The state is required by federal law to develop the **case plan** for your child and family. Working on the **case plan** gives you the chance to define your rights and responsibilities as a parent while your child is in foster care, have a say in the type of care your child will receive, and explain what help both you and your child need.

### Who pays for these services?

Both you and **DHS** cover the cost of **services** in the plan. For example, **DHS** will bring

child to and from the foster home to a **DHS** office or other place where you spend time together, and **DHS** often gives bus tickets to parents for going to classes that are part of the plan. Parents may have to pay some amount for classes. Parents also are asked by the state to make child support payments to the state while their children are in foster care.

### **How can I do these services if I do not have a car or my license is suspended?**

You will have to arrange for transportation. **DHS** may be able to give you bus tickets or gas money.

### **What if I change my mind about parts of the service agreement?**

When you sign the **case plan**, it means that you agree to take the actions listed. If you think parts of the plan are unreasonable, talk about it with your **lawyer**.

### **What responsibility does DHS have to help me so that my child can come back home?**

Federal law requires **DHS** to make **reasonable efforts** to do the following:

- keep children in their own homes,
- provide **services** so that children can return home safely, or
- find children another permanent placement.

## ***Nancy's Voice***

*From the first day that the child welfare system came into my life, I felt confused, afraid to ask for help and alone, with no one to guide or support me. It took me a long time to understand my case plan and access services. Once I found a job and a house and was getting therapy and taking parenting classes, I thought my kids would come home. At every court date, I expected my children to be released to me. Finally I asked my attorney why they were still in foster care and he explained that I had to complete my treatment plan before the court would consider reunification.*

## What kinds of services might be in the plan?

**Services** such as counseling, substance **abuse** treatment, mental health services, parent training, and others can be in the plan. These **services** should meet your needs as well as the needs of your child. Time with your child is a very important service to be included in the plan.

## What if I do not want to do some of the services?

If the judge approved the plan, then you are expected to do everything in the agreement. For your child to return to your care, you need to do everything. Skipping classes or dropping out of treatment are examples of not doing everything in the plan. Child welfare laws are based on the ideas that if parenting your child is very important to you, then doing the **services** will be very important to you because it is what you need to do to be reunited as a family. You need to not only attend **services** but to make the changes the **services** are designed to help you with.

## TIPS ABOUT THE CASE PLAN

If your child is in out-of-home **placement** (also referred to as foster care), the state is required by federal law to develop the **case plan** for your child and family with you. Working on the **case plan** with your **lawyer** gives you the chance to do the following:

- explain what help both you and your child need
- set goals that are important to you
- ask for specific services
- ask questions
- have a say in the type of care your child will receive
- define your rights and responsibilities as a parent while your child is in foster care
- understand your responsibilities and the agency's

When you sign the **case plan**, it means that you agree with it. If you don't agree with it, talk about it with your **lawyer**.

## SECTION 9: REVIEW HEARINGS

Review hearings must happen every six months and sometimes happen more often. They will be with either a judge at the courthouse or a **Citizen Review Board (CRB)** somewhere other than the courthouse. They generally last less than an hour, sometimes much less. It is important that you do not arrive late for a hearing because you could miss it entirely.

### What is a Citizen Review Board (CRB)?

The **CRB** is a small group of trained volunteers, appointed by the Chief Justice of the Oregon Supreme Court, who review the progress of cases of children who have been removed from home. Findings and recommendations from the **CRB** are forwarded to the judge that has **jurisdiction** of the child. **CRB** review may take the place of a court hearing, and if the judge, after reading the findings and recommendations of the **CRB**, believes that a hearing is necessary, then the judge can order one.

### What if I cannot come to a hearing?

You should make every effort to come to the hearings at the time that they are scheduled. However, if you are unable to make it, ask your **lawyer** to request that the hearing be held when you are able to attend. If it is just not possible for you to come to the hearing, then let your **lawyer** or the caseworker know why so that information can be shared with the judge. If you have a good reason to not be there, but can be on the telephone during the hearing, tell your **lawyer** who can try to make that happen.

### What are review hearings for?

Review hearings help you, **DHS**, and the judge or **CRB** know the following:

- if your child is safe and well in his or her present placement
- whether your child needs to continue in the placement, and if not, the timeline for reunification
- you and **DHS** are doing what the **case plan** says each of you will do
- what kinds of progress is being made, and
- whether the **case plan** should be changed.

### What happens at review hearings?

Talk with your **lawyer** before all hearings to let him or her know what you want to be said in the hearing. If you want to speak yourself, be sure that your **lawyer** knows this and arranges for you to talk during the hearing. You also can give the judge a letter you have written ahead of time. If English is difficult for you, then ask for an **interpreter**.

During the hearing, the caseworker will tell the judge how your child is doing and what has been happening in the case. Your **lawyer** will share what actions you have been taking and any changes you want to the **case plan**. If you believe that someone is saying things in court about you or your family that are not true, tell your **lawyer**. If after the hearing you are confused about what happened, be sure to ask your **lawyer** or the case worker to explain it to you.

### **At the review hearing they mentioned a permanency hearing, what is that?**

At a review hearing, a **party** may ask for a **permanency** hearing, which is asking for the plan to change from returning the child home to a different plan, usually the concurrent plan. Even if a **permanency** hearing is not asked for, the law makes courts set one on the calendar within one year from when your child was removed. Talk to your **lawyer** about what will happen at the **permanency** hearing and what concurrent plans **DHS** has made. This is a very serious stage of the case and could lead to the termination of your parental rights.

### **\*\*\*\*\*WARNING\*\*\*\*\***

**If your caseworker or anyone wants to talk to you about relinquishing your parental rights or says that your parental rights might be terminated, it is important to talk about this with your lawyer, as it could lead to permanent loss of your parental rights.**

## **TIPS FOR REVIEW HEARINGS**

- Be sure to let your **lawyer** know about the progress you are making in the **services** you are receiving. For example, if you receive mental health or substance **abuse** treatment, how are you doing?
- Sometimes there are waiting lists for **services** that you may need (for example mental health services, public housing, substance **abuse** treatment). Some communities have agreements that allow families whose children are in foster care to move up on these waiting lists. Ask if you can be moved up on the waiting list(s).
- If you have not received the **services** listed in your **case plan**, tell your **lawyer**.
- If you have problems and need mental health or substance **abuse** treatment, the decision to participate in treatment is yours alone. But be aware that if you do not get any benefit from treatment, it will probably affect whether your child can return home.
- Form a support system around yourself to help you get through the tough times. Take care of yourself so you can be there for your children.

## SECTION 10: PARENTING YOUR CHILD IN YOUR HOME

This section covers how **DHS** can help you and your child live together safely, whether your child has not been removed or was removed and returned, called reunification. **In-home services** give families support and financial help to get the clothes, housing, counseling, and other items and **services** they need to live together. For more information on services, see Section 7 of this Guide.

### How can I get in-home services?

Most often, families are referred to **in-home services** after a report of child **abuse** or neglect. If your family needs help to stay together and keep your children safe, you should be eligible to receive in-home support services. In addition, if your child is returning from out-of-home care, then **in-home services** that will help you get back together as smoothly as possible should be available to your family.

Referrals for these **services** may be made by the caseworker, the court, doctors, health departments, mental health centers, schools, law enforcement, and other interested professionals. There are three ways you can get **in-home services**. You can be referred by someone else, you can be ordered by the court to participate in **in-home services**, or you can ask for the **services** yourself.

### What happens if I refuse in-home services?

If the **in-home services** are not court-ordered, then you can refuse to participate or you can stop participating. But if there is concern for your child's safety, then the court can order you to participate.

### Do child welfare agencies have funds to pay for in-home services?

Federal laws say how important it is to prevent the **placement** of children in out-of-home care, but the federal government provides more funding for out-of-home care than for **in-home services**. Oregon does not have enough state money to serve many of the families who need **in-home services**.

### Will there be rules I need to follow to get in-home services?

For your children to live with you while the court has **jurisdiction** over your case, there needs to be a good plan in place that shows how you will keep them safe by protecting them from possible harms. The plan may include **protective** actions you will take to keep your children safe and **services** for you and/or your children that you must work into your daily and weekly routine.

## What does reunification mean?

**Reunification** means that a child returns home to his family after foster care. **Reunification** is the most preferred goal for children who are in foster care.

## Will I get custody of my child once she returns home?

It depends. You might get back full **custody** when your child returns home, and you will no longer have to be involved with **DHS** and services. But more likely you might have only physical **custody** of your child. This means your child would be living with you, but **DHS** would still have **legal custody**.

If **DHS** keeps **legal custody**, return of legal **custody** to you could be based on certain conditions set by the court. Within the time frame that is set, you must meet those conditions and continue working on services. The **case plan** should list the kind of support **services** that will be made available to you once your child returns home. When you, **DHS**, and the court agree that your child is safe with you and that you are able to care for him or her now and in the future, then you should regain full **custody** of your child.

## When will the child welfare agency and the court no longer be involved with my family?

Once your child is at home with you, any **monitoring** activities have ended, full **custody** has been returned to you, and you are no longer receiving services, then your case can be completely closed in court.

### *Louis' Voice*

*My social worker, Eva Torres, offered me more services to help me reunify with my girls. Although I felt that my parenting skills were OK, the courts believed otherwise, so I started attending a class called Incredible Years. The class taught me how to deal on a daily basis with the emotions of being a parent, especially how to handle all the weapons of mass destruction that little ones know how to open up and unleash with no regret. The class helped me a lot. Ms. Torres also gave me practical help. She got me dressers for my daughters and applied for a voucher so I could get a better car. "It's a long shot, but it's worth a try," she told me. A few weeks later, she gave me the voucher for a down payment on a new car. That was unbelievable! Finally, in November 2007, my kids started to come home for extended visits. Then I felt confident that I would be a father again.*

## TIPS FOR SUCCESSFUL REUNIFICATION

- Request that your family and friends be involved in your support system.
- Request that appointments take place during times that work for your family, for example, after the regular workday or on weekends.
- If you think you need help, ask for it.
- If you think you will need support **services** after your child returns home, talk with your **lawyer** about how to get them.
- If you learn about an approach that appeals to you, ask if it can be considered for your family.
- Ask for **services** in your own language.
- Talk with your **lawyer** about how to bring together your child welfare **case plan** with other **services** you are involved in.
- Ask your case worker to help coordinate appointments and activities that are part of all your services.
- If you have a **voluntary** agreement with the child welfare agency, be sure to get the agreement in writing. It should clearly explain your parental rights.
- Have a **lawyer** review the **voluntary** agreement that you sign.

## SECTION 11: RESOURCES

### **Community Support Organizations**

Parents Anonymous

Parent Support Line 1-888-427-2736

<http://www.morrisonkids.org/parents+anonymous+of+oregon+parent+mentor+program.aspx>

Volunteers of America

(503) 235-8655

<http://www.voaoor.org/Learn-About-our-Services/Children-and-Family-Services>

Oregon Alliance of Children Programs

(503) 399-9076

<http://oregonalliance.org>

Children of Incarcerated Parents

[www.oregon.gov/DOC/OMR/PROGMS/pages/oam\\_children.aspx](http://www.oregon.gov/DOC/OMR/PROGMS/pages/oam_children.aspx)

Rise Magazine

<http://www.risemagazine.org>

### **Oregon Laws**

**Juvenile** Code: **Dependency**, Oregon Revised Statutes  
Chapter 419B

[www.oregonlegislature.gov/bills\\_laws/Pages/ORS.aspx](http://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx)

**DHS** Child Welfare: Child Welfare programs, Oregon Administrative Rules Chapter 413  
Oregon Courts

<http://courts.oregon.gov/OJD/courts/index.page?>

### **Lawyer Information**

Oregon State Bar

1-800-452-8260

<http://www.osbar.org/>

Oregon Public Defense Services

(503) 378-3349

<http://www.oregon.gov/OPDS/>

### **Department of Human Services**

**DHS** Main Website:

[www.oregon.gov/DHS/](http://www.oregon.gov/DHS/)

**DHS** Child Welfare Policies:

[www.dhs.state.or.us/policy/childwelfare/](http://www.dhs.state.or.us/policy/childwelfare/)

## SECTION 12: DEFINITIONS

This section contains words or phrases used in this guide and the **Child welfare system** that may be unfamiliar to you. It also has words or phrases that are not used in this guide. These are terms that you may see or hear as you are involved with the child welfare system.

**abuse** – Physical harm to a child that is not accidental.

**admission** – When the parents (and perhaps child) admit that the **allegations** in the **petition** are true and consent to the court taking **jurisdiction** of the child.

**adoption** – The process by which a person who is not a child’s parent becomes the child’s legal parent.

**Adoption and Safe Families Act (ASFA)** – A federal law with rules about what states must do in **dependency cases** to keep getting federal money.

**ASFA – Adoption and Safe Families Act** – see above

**allegations** – (of a **petition**) The part of the **petition** that says why the court should have **jurisdiction** over the child, by stating the **abuse** or **neglect** the child suffered.

**answer** – A written statement filed with the court that admits or denies each allegation in the **petition**.

**assessment** – A process to determine whether a child, parent or family have particular needs. The result of **assessment** is often recommendations for services. There are many different types of **assessments** in **dependency cases**, including: drug and alcohol **assessment**, mental health **assessment**, safety **assessment**, risk **assessment** and family **assessment**.

**Assistant Attorney General (AAG)** – Title for **lawyers** who work for the Attorney General’s office and represent **DHS** in **dependency cases**.

**burdens of proof** – The amount of **evidence** needed to prove **allegations** or allow state action regarding a child. The **burdens of proof** are: beyond a reasonable doubt, **clear and convincing evidence**, preponderance of the **evidence**, and probable cause.

**CASA - Court Appointed Special Advocate** appointed – When the court chooses a person to take on a task, it appoints that person to the job.

**case plan** – A plan saying what **services** should happen during the case.

**child and family teams** – The child and family team comes together to develop family **case plans**. The team is usually made up of the service providers and **DHS** representatives who are working with the family, extended family members, and other support persons, such as neighbors or ministers.

**Child Protective Services (CPS)** – The agency that is responsible for investigating cases of suspected **abuse** or **neglect** of children and for providing **services** and supports to children and families.

**child safety meetings** – Meetings for making a plan for the child to be safe during the case.

**Child welfare system** - A collection of **services** designed to promote the well-being of children by ensuring safety, achieving **permanency**, and strengthening families to successfully care for their children. Typically these **services** include receiving and investigating reports of child **abuse** and neglect, providing **services** to families who need assistance care for and protecting their children and arraigning for out-of-home placements for children who are not safe at home, and working toward family **reunification** or other permanent **placement** for children placed out-of-the home.

**Citizen Review Board (CRB)** – A local board of trained volunteers, appointed by the Chief Justice of the Oregon Supreme Court, upon recommendation by the local presiding judge, who review the progress of cases of children who are in substitute care. Findings and recommendations from the **CRB** are forwarded to the court that has **jurisdiction** of the child or youth. **CRB** review may take the place of a court hearing. If the court, upon reviewing the findings and recommendations of the **CRB**, believes that a hearing is necessary, the court may order that one be held.

**clear and convincing evidence** – The burden of proof between "preponderance" and "beyond reasonable doubt;" the amount of **evidence** necessary to establish **jurisdiction** in an Indian Child Welfare Act case or to terminate parental rights in a non-Indian Child Welfare Act Case.

**concurrent plan** – A plan for **permanency** for a dependent child who is in foster care in addition to the **primary plan** of returning the child to the parent.

**confidentiality** – Information that is private and not to be shared; there are many rules keeping papers and conversations confidential, and rules about when information can be shared.

**considered judgment** – When children are mature enough to understand the process and importance of the outcomes in a **dependency case**, then they have **considered judgment**

and make their own decision about what outcome they want.

**Court Appointed Special Advocate (CASA)** – A trained volunteer who is appointed to investigate a dependent child's situation and to make recommendations to the court about what is in the child's best interest.

**court order** – A legally binding document that describes the judge's instructions or directions. All parties to a **court order** must follow it.

**custody** – A judge grants this to an adult or an agency so that they have the legal right to care for a child. The person or agency with **custody** has the power to make major decisions regarding the child.

**denial** – A statement by parents and/or child that the **allegations** of the **petition** are untrue and that the child should not be within the **jurisdiction** of the court. A **denial** is also a request that the court hold a **jurisdiction** hearing/trial on the **allegations**. Parents must be given an opportunity to admit or deny **allegations** of a **petition** no later than 30 days after it is filed.

**Department of Human Services (DHS)** – A state agency that provides **services** and programs to protect children who experience **abuse** or neglect; strengthen families to help keep them together; provide quality foster care and ensure permanent families when necessary for the safety and protection of children

**dependency case** – A case concerning a child who has been, or is **alleged** to have been, **abused** or neglected.

**dependency petition** – A **petition** that **alleges** a child is within the **jurisdiction** of the **juvenile** court due to child **abuse** or neglect.

**deputy district attorney (DDA)** – Title of the **lawyer** who works for the state on some cases.

**disposition** - If the **allegations** of the **petition** are admitted or proven true in a **jurisdiction** hearing/trial then the court holds a separate hearing (even though it may happen on the same day, immediately following the **jurisdiction** hearing) to decide what **services** the family needs to enable the child to safely return to the parent's care.

**dispositional** hearing – The hearing where the court decides what **services** the family needs to enable the child to safely return to the parent's care.

**emergency placement/removal** – This is when a child is temporarily removed from his or her family because the **CPS** worker has concerns about the safety of a child. The **CPS** worker is supposed to get an emergency protection order either before or immediately after the child

is removed. The emergency protection order will then be reviewed in a court hearing to see if your child can return home.

**emergency shelter** – This is a temporary, short-term place where children who are taken into state **custody** may stay. It may be a family home or a group facility. It is set up to provide an immediate safe environment while decisions are being made about where a child will live.

**family group decision meeting (FDM)** – Also called “family team decision making.” A meeting that is held with the family and extended family members to get them involved in planning for the safety and **permanency** of the child or youth.

**family mediation** – This is a process in which a trained **mediator** helps to find solutions on issues regarding a child’s welfare and placement. Generally, **mediators** are provided to assist parents in negotiating with proposed adoptive parents concerning future contact between the biological parent and the child. This person (often called a “**mediator**”) is not directly involved with the family or with the child welfare agency. This person works with **DHS** workers and family members to reach agreement on issues.

**foster family** – An out-of-home **placement** in a home setting with foster parents who are licensed, trained caregivers.

**founded** – a finding after the initial **CPS assessment** that there is believable **evidence** that child **abuse** or **neglect** has occurred. Another term that means the same thing is substantiated.

**group home** – An out-of-home **placement** in which a number of unrelated children live together for different lengths of time. Group homes may have one set of house parents or may have rotating staff. Some therapeutic or treatment group homes have specially trained staff to assist children with emotional and behavioral difficulties.

**guardianship** – A legal way for an adult other than the parent to assume parental responsibility and authority for a child. This is done without ending the parental rights of the birth parents. Legal **guardianship** for a child is a relationship between the child and a caretaker that is created by the court. It is intended to be permanent.

**independent living placement** – An out-of-home placement, for example, an apartment. It is for older youth in foster care and those who leave the foster care system to live on their own. This includes youth who cannot return home to live, are not placed with relatives or guardians, and are not adopted.

**independent living services** – These are **services** to prepare youth for adulthood. They may focus on developing skills in areas such as money management, job hunting, daily living skills, and communication skills.

**Individualized Education Plan (IEP)** – Federal law states that children with disabilities have the right to attend public schools with their peers. A team of school staff and parent(s) create a plan to identify areas the child needs help with in the current school year. The **IEP** also describes how the school will provide these services.

**in-home services** – **DHS** may give families referrals for support and financial help to get the clothes, housing, counseling, and other items and **services** they need to live together.

**interpreter** – One who translates from English to the person's first language or from the person to English.

**investigation** – This is the formal information gathering process used by **DHS** to determine whether or not child **abuse** or **neglect** has occurred.

**jurisdiction** – The hearing at which the court makes a finding that it is justified for the court and **DHS** to be involved. **Jurisdiction** gives the judge authority to continue your child in foster care and order **services** that you and your child must do.

**juvenile** – Child under 18 years of age.

**juvenile court** – A court with **jurisdiction** over all cases involving children under 18 years of age.

**kinship care** – An out-of-home **placement** with the child's relatives.

**lawyer** – Also known as attorney or legal representative. A professional person authorized to practice law, whose role is to conduct litigation for clients or provide legal advice.

**lawyer-client privilege** – Also known as **attorney-client privilege**, a rule that keeps information you give your **lawyer** private.

**mediator** – A person who is not involved in the case, who helps the parties reach agreements.

**Medicaid** – **Medicaid** finances health and mental health care for eligible people with low incomes. **Medicaid** is run and funded jointly by the federal government and states. Children normally qualify either because they live in a family with very low income or because they have a disability severe enough to qualify them for federal disability benefits such as Supplemental Security Income (SSI).

**monitoring** – To keep close watch over.

**motion** – Papers **lawyers** file with the court asking the judge to take action in their client’s favor, such as limiting the use of unhelpful information at trial.

**neglect** – To fail to care for a child in a way that keeps them safe from harm.

**Notice of Appeal** – A document that must be filed with the Oregon Court of Appeals when a **party** wants review of appealable orders of the **juvenile** court.

**ongoing safety plan** – The plan to protect a child from safety threats – usually while the child remains in the parent’s home.

**open adoption** – An **adoption** in which the adoptive parent and birth parent agree that the birth parent will keep some type of contact with the child. The contact is usually limited such as pictures annually and the agreement may be difficult to enforce.

**Oregon Safety Model (OSM)** – The name for the process **DHS** workers must follow in **dependency cases**.

**out-of-home care/out-of-home placement** – The place a child lives when moved out of his or her home into another home or other setting – foster care or relative’s home.

**parenting time** – Time a parent spends with their children who are in an out-of-home placement, also called **visitation**.

**party** – People and agencies that are part of a case, in **dependency cases** the children at issue are parties, as are all of the parents of those children, **DHS**, and sometimes a **CASA**.

**permanency** – This is one of the goals established by federal law for children who are in out-of-home placement. When a child has been placed outside of the home, **DHS** must establish a permanent home for her or him within time limits. The initial permanent plan is to return the child to the parent but in each case there must be a **concurrent plan** – which **DHS** is working on concurrently. The **concurrent plan** is most often **adoption**.

**permanency hearing** – A hearing held to determine the most appropriate permanent plan for a child who is placed out-of-home. Most often this hearing will be held 12 months from the date **jurisdiction** was established or 14 months from the removal of the child (whichever is earliest). A **permanency** hearing may also be held at any time upon **motion** of a **party** or if the court determines that one should be held.

**permanency planning** – This is the process the **DHS** worker goes through to ensure that a permanent plan is developed and implemented.

**petition** – A legal paper which states facts about a child that, if true, would justify the court taking **jurisdiction** of the child.

**physical custody** – The adult living with the child has **physical custody** of the child.

**placement** – Where a child who has been removed from his home – this can be a foster home, a relative or a group facility.

**prehearing/settlement conference** – Any one of a number of proceedings or meetings among the parties to a **dependency case** that aim to deal with the **petition** without a trial.

**preponderance of the evidence** – A burden of proof in which a fact is more likely true than not true; the amount of proof necessary to establish **jurisdiction** or to establish a fact as proven in a **review hearing** in a non-Indian Child Welfare Act Case.

**prevention and family support services** – These are **services** to support and strengthen families so children do not have to be placed out of their home. These may include **services** such as family education, respite care, **voluntary** visiting services, and family support programs.

**primary plan** – The plan that the judge has approved **DHS** working toward, almost always reunification.

**probable cause** – A burden of proof in which there is some reason to believe that an allegation is true; the amount of proof necessary to allow removal of a child from home prior to a trial on the **petition**.

**proceed** – To move ahead.

**protective action** – What steps a parent takes to keep his or her children safe from harm.

**protective capacity** – A parent's ability to protect his or her children from harm.

**protective custody** – When **DHS** removes a child from his or her home.

**psychiatrist** – A doctor who works in the branch of medicine that deals with the **assessment** of mental and emotional disorders.

**psychologist** – A person trained to work with people to assess and improve their mental health.

**PTC** – A pretrial conference

**reasonable cause** – A reason that would lead an ordinary person to believe something was true.

**reasonable efforts** – These are the steps **DHS** must take to prevent children from being removed from their homes and to help children who have been removed to return home. **DHS** must also make **reasonable efforts** to help children find other permanent homes if they cannot return to their own families.

**referral** – A way of sending a person to a program or other service with a request for that person to take part in the available program or service. A **referral** often includes a promise for payment for the service.

**relative placement** – This is a type of out-of-home **placement** where the full-time care of the child is provided by relatives, godparents, step-parents, or other adults who have a kinship bond with the child. This could also include a close friend, a neighbor, or a member of a child's tribe.

**release of information** – A paper giving the holder of information permission to share that information with the people listed in the release.

**Relinquishment of parental rights** – Voluntarily signing papers that give up all rights to parent your child so your child can be adopted.

**residential treatment center** – An out-of-home **placement** for a child. It may also be called residential group care. This is a state-licensed, 24-hour facility that has treatment services, including mental health **services** for children with special needs. Many children in residential care have emotional or physical conditions that require intensive, on-site therapy. Residential treatment centers are usually a temporary placement.

**respite care** - This is a service that gives a family a short break or relief by having someone else temporarily take care of a child. It can be for a few hours or a few days.

**reunification** – When the court returns legal and physical **custody** of a child to his or her parent.

**review hearing** – At any stage of a case, but most often after **jurisdiction** and **disposition**, the court may hold a hearing at which the judge reviews a child's situation and considers adjustments to the **case plan**. Regular review hearings are usually scheduled every three to six months in most cases.

**risk assessments** – See **assessment**.

**services** - Any activity that **DHS** helps get parents and children involved with to meet their needs. Examples include visits, counseling, drug treatment, food stamps, and classes such as anger management, parenting, and life skills.

**shelter hearing** – The first hearing after an emergency removal of a child for the **juvenile** court to review the reasons **DHS** has for having temporary **custody** of the child. Also called a preliminary hearing.

**substantiated** – When claims made by **DHS** are supported by enough **evidence**, then the court holds the claims are **founded** or substantiated.

**substitute care** – Another term for **placement** out-of-home – can include foster care, relative care or residential treatment.

**temporary custody** – When a child is removed from home and **DHS** is given temporary legal **custody** of the child.

**termination of parental rights (TPR)** - A legally binding court decision made by a judge that ends all parental rights of the parent.

**therapeutic foster home** (also called “treatment foster care”) – This is a type of out-of-home **placement** with foster parents who have special training and skills to care for children and adolescents with significant emotional, behavioral, or medical problems.

**transition plan** – The plan for moving a child from one living place to another.

**visitation** – Time spent with a child who lives in an out-of-home placement.

**voluntary** – An action not required by a **court order**.

**wardship** – Children found to be within the **jurisdiction** of the court are sometimes called "wards of the court."

**Wraparound Program** – This is a **case planning** program in which the child and family are fully involved in deciding what **services** are needed. The **services** offered usually include a lot of community **services** and supports from other family members and friends.

Youth, Rights & Justice is dedicated to improving the lives of vulnerable children and families through legal representation and advocacy in the courts, legislature, schools and community. It is our vision that all children and families in Oregon receive the support they need to be safe and to be successful members of the community.

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Updated 2016