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"Children placed in group settings have far less educational success than their counterparts in family settings..."

Image courtesy of Unsplash

"Family First" Law Restricts Use of Congregate Care for Foster Youth

By Lisa Kay Williams, YRJ Supervising Attorney

The Family First Preservation Services Act seeks to improve the well-being of children in foster care by establishing minimum standards for congregate care settings, by requiring independent assessments by qualified individuals that both outline a foster child's needs and recommend the appropriate level of care to meet those needs and by requiring court approval and ongoing oversight of a child's placement in a congregate care setting. This article outlines those requirements and proposes tasks for advocates to do and questions to pose.[1]

When enacting the Family First Preservation Services Act, Congress focused on research that demonstrated poor outcomes for children placed in congregate care compared to outcomes for children placed in family like settings. Children placed in group settings have far less educational success than their counterparts in family-settings: they are less likely to graduate from high school, more likely to drop out of school and more likely to obtain lower academic test scores.[2] Youth with at least one group-home

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placement were almost 2.5 times more likely to become delinquent than their peers in foster care.[3] Youth who have experienced trauma are at greater risk for further physical abuse when they are placed in group homes, compared with their peers placed in families.[4] Alternatively, children and youth placed in family foster care experienced fewer placements, returned to the care of a parent sooner, were less likely to suffer re-abuse, were placed closer to their communities and were more likely to live with their siblings.[5] Casey Family Programs recommends that "[i]f therapeutic residential care is deemed necessary, jurisdictions should have a structured decision-making process to ensure that only specific youth who can most benefit are placed in this setting; that it offers the most appropriate, evidence-based interventions; and that it is used for the shortest amount of time necessary to achieve key safety, therapeutic, and permanency goals."[6]

Senate Bill 171, Oregon's implementation of the Family First Prevention Services Act, does just that.[7] The bill requires that congregate care settings meet the standards of a Qualified Residential Treatment Program (QRTP), with limited exceptions. DHS may place a child in a child-caring agency that is not a QRTP if the agency provides the following: prenatal, postnatal or parenting supports to a child; independent residence facility; care and services to sex trafficking victims; psychiatric residential treatment; proctor foster care; short term assessment and stabilization services by a residential care facility or shelter program, or homeless, runaway or transitional living shelter services.[8] A congregate care setting is any setting that cares for more than one child that is not a foster home, a proctor foster home certified by a child-caring agency or a residential facility or foster care home for children receiving developmental disability services.[9]

Image by Toa Heftiba

Minimum Standards for Congregate Care Settings

A QRTP provides licensed and accredited residential care and specialized, evidence-based treatment, supports and services to a child, who based on an independent assessment, requires such treatment to address the effects of trauma or mental, emotional or behavioral health needs. The program must be licensed and accredited by one of the following organizations: the Commission on Accreditation of Rehabilitation Facilities, the Joint Commission on Accreditation of Healthcare Organizations or the Council on Accreditation.[10] The program must utilize a trauma informed treatment model with services to address the clinical needs of children. [11] A QRTP must employ licensed medical and mental health staff, including registered or licensed nursing staff working within the scope of their licensure, on-site according to the treatment model and available 24 hours a day, seven days a week.[12] A QRTP facilitates and documents family involvement in the child's treatment, consistent

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There are several other questions advocates can ask about congregate care programs:

- Does the program meet the requirements of a QRTP?
- What are the program's policies and procedures for when staff should contact law enforcement on youth in the program?
- What are the program's policies on the use of restraints and seclusions?
- What personal property are children allowed to keep at the facility?
- Is the facility capable of meeting the individualized needs of a child such as language of origin, sexual identity, disability, and more?
- What age appropriate activities and experiences will the child be able to participate in while at the program?
- How will the facility meet the educational needs of the child?
- Does a high-school-aged child have the same ability to earn high school credits as a child would in non-congregate care settings? For every child over the age of 14 in substitute care, DHS must report to the court the number of high school credits the child has earned. [ORS 419B.443.]
- How will the child's need for routine and preventative health care be met?
- What training do staff receive?
- Do all staff receive training on cultural and linguistic competence?
- At what rate do staff turnover?

with the best interests of the child.[13] Finally, a QRTP provides discharge planning and family-based after-care support for at least six months following discharge.[14]

Advocates for children and families can independently assess the quality of a congregate care setting by visiting the facility and asking questions. As part of her efforts to reduce the use of congregate care in her district, Judge Kim Berkeley Clark visits facilities and asks, "Would I want my child to be here?" and "If I were a kid, would I want to be here."[15]

Independent Assessment by a Qualified Individual

DHS must ensure that an independent, qualified individual assesses each child within 30 days of the child's placement in a QRTP.[16] A qualified individual is one that is a trained professional or licensed clinician, is not an employee of DHS or the Oregon Health Authority, and is not affiliated with any placement settings for children.[17] The evaluation must assess the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool; determine whether the needs of the child can be met by family members or foster parents, and if not, determine which setting would provide the most effective, appropriate, least restrictive level of care consistent with the short- and long-term permanency goals; develop individualized, specific short-term and long-term mental and behavioral health goals and, finally, work in conjunction with the child's family and team.[18] The evaluator's report must contain the following information. First, a written explanation of why the needs of the child cannot be met by the child's family or by a foster family. A shortage of foster homes

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There are several things that advocates can do to ensure that your client receives a thorough evaluation:

- Gather all relevant information about your client by requesting a copy of the client's DHS file as well as records from other providers and agencies by submitting a records request pursuant to ORS 419B.195 (2).
- Ask DHS for a list of independent evaluators in your area and determine which particular evaluator the department will utilize.
- Ask DHS to provide you with the list of referral questions sent to the evaluator along with the documents provided.
- Consider submitting your own referral questions to the evaluator and supplemental information on your client's behalf.
- If not asked by DHS, ask the evaluator to outline your client's behavioral and mental health needs, what services and supports can meet those needs, whether those services and supports are available in a community setting, and whether efforts have been exhausted to provide treatment in a community setting.
- Ensure that the evaluator knows what the current permanent plan is and ask how placement in a QRTP will promote progress toward that permanent plan.
- Once the evaluation is completed, consider requesting a feedback session with that evaluator.

is not a valid reason to recommend placement in a higher level of care.[19] Second, why placement in a QRTP is the most appropriate, effective and least restrictive setting, and, finally, how placement in a QRTP is consistent with the short-term and long-term goals for the child as specified in the child permanency plan.[20]

Court Approval of QRTP Placements

Within 30 days of placement in a QRPT, DHS must move the court for an order approving such placement.[21] The motion must include the date of the placement, the parties' placement preferences and a copy of the child's independent assessment.[22] Upon receipt of the motion, the court must hold a hearing and enter an order approving or disproving the placement no later than 60 days after the child's placement in the QRTP. [23] In the order, the court must make the following specific determinations:

"Whether the needs of the child or ward can be met through placement in a foster family home or in a proctor foster home as defined in ORS 418.205," and

"If the court determines that the needs of the child or ward cannot be met through placement in a foster family home or proctor foster home,

Image by Vladislov Nikonov

whether placement of the child or ward in the qualified residential treatment program: (i) Provides the least restrictive setting to provide the most effective and appropriate level of care for the child or ward; and (ii) Is consistent with the child's or ward's case plan."[24]

Ongoing Oversight of QRTP Placements

There are several existing statutes that grant the court authority to review, approve or reject a child's placement as well as to make specific recommendations to DHS regarding a child's care. Committing a child to the custody of DHS does not terminate the court's continuing jurisdiction to protect the rights or children and their parents.[25] The court must review efforts made by DHS to allow a child to remain or return safely to a parent.[26] The court has the authority to review placements and, if the court determines that a DHS placement or proposed placement is not in the child's best interest, the court may order DHS to place a child in a specific type of placement, e.g. placement with a parent, a relative foster parent, a current caretaker, a group placement, etc.[27] The court

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There are several tasks for advocates to complete and questions to ask when DHS places a client in congregate care:

- Consider making a records request pursuant to ORS 419B.195(2) to ensure that the advocate has all treatment records.
- Attend treatment meetings.
- If the plan is reunification, how are the child's parents involved in the treatment?
- What actions are the program and DHS taking to ensure that the child has contact with parents, siblings and other family members consistent with the child's best interests?
- If the plan is not reunification, what steps has DHS taken to identify an alternative parenting resource and other positive adult connections?
- Where is the child attending school? If in high school, is the child sufficiently earning credits to earn diploma?
- Does the treatment plan have measurable goals? How was the child and the child's permanency team involved in developing the treatment plan?
- Is the child making progress on treatment goals? If not, why not?
- Is the child on psychotropic medication? How is the prescribed medication assisting the child in meeting treatment goals? How often is the medication regimen re-assessed to determine continued appropriateness?
- Has the child received routine medical and dental care?
- Is the child involved in age appropriate activities and experiences?
- Is the teen developing adult living skills?
- In what religious or cultural traditions does the child have an opportunity to participate?
- Is there an adequate aftercare plan following discharge?

has the authority to "specify the particular type of care, supervision or services" that DHS must provide to children in their custody.[28] DHS must consider a committing court's recommendations before placing a child in any facility.[29] DHS must also develop a case plan and regularly report to the court particular information and progress made regarding the case plan.[30]

The congregate care requirements of Senate Bill 171 outlined above take effect on July 1, 2020. Given the court's current and continuing authority to review, approve or reject placements, the proposed tasks for advocates to do and questions to

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There are several things that advocates can do to ensure that their clients are meaningfully involved in the placement decision making process:

- Engage in thorough discussions with clients about all aspects of their case and specifically their permanency plan and placement preferences.
- Ask clients who should participate in their permanency team and ensure that the necessary consultation with the permanency team occurs. The independent evaluator must work in conjunction with the child's family and permanency team. If the child is 14 years old or older, the child selects members of the team. [Or Laws 2019, ch 619, § 6]
- Ensure that clients are present when decisions are made that concern them, including court hearings, DHS meetings and treatment meetings. Foster children have the right to be notified of, and provided with transportation to, court hearings and reviews by local citizen review boards pertaining to their case when the matters to be considered or decided upon at the hearings and reviews are appropriate for the foster child, taking into account the age and developmental stage of the foster child. [ORS 418.201]
- Federal and state statutes require consultation with children in foster care, in an age appropriate manner, regarding the permanency and transition plans proposed for them, access to age or developmentally appropriate activities and contact with grandparents. In addition to ensuring that clients are present at court hearings, advocates can assist in preparing clients for such consultations. [42 U.S.C.A. § 675(5)(c); ORS 419B.476(6); ORS 419B.876 (2)(d)]

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pose are immediately applicable.

Footnotes

[1]National Association of Counsel for Children and the American Bar Association Center on Children and the Law. "Reducing Reliance on Non-Family Placements, A Judicial Toolkit." https://www.ncsc.org/~/media/Microsites/Files/Every%20Kid/checklist.ashx. (Accessed December 9, 2019)

[2] Casey Family Programs. "What are the outcomes for youth placed in congregate care settings?" https://www.casey.org/what-are-the-outcomes-for-youth-placed-in-congregate-care-settings/. (Accessed December 9, 2019)

[3] Casey Family Programs. "What are the outcomes for youth placed in congregate care settings?" https://www.casey.org/what-are-the-outcomes-for-youth-placed-in-congregate-care-settings/. (Accessed December 9, 2019)

[4] Casey Family Programs. "What are the outcomes for youth placed in congregate care settings?" https://www.casey.org/what-are-the-outcomes-for-youth-placed-in-congregate-care-settings/. (Accessed December 9, 2019)

[5] Casey Family Programs. "What are the outcomes for youth placed in congregate care settings?" https://www.casey.org/what-are-the-outcomes-for-youth-placed-in-congregate-care-settings/. (Accessed December 9, 2019)

[6] Casey Family Programs. "What are the outcomes for youth placed in congregate care settings?" https://www.casey.org/what-are-the-outcomes-for-youth-placed-in-congregate-care-settings/. (Accessed December 9, 2019)

[7] Or Laws 2019, ch 619

[8] Id. § 3a.

[9] Id. § 3a(1)(a).

[10] Id. § 5.

[11] Id.

[12] Id.

[13] Id.

[14] Id.

[15] Chiamulera, Claire. "Reducing Congregate Care Placements: Strategies for Judges and Attorneys." Child Law Practice Today. https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_practiceonline/january-december-2018/reducing-congregate-care-placements--strategies-for-judges-and-a/ (Accessed December 9, 2019.

[16] Or Laws 2019, ch 619, § 6

[17] Id.

[18] Id.

[19] Id.

[20] Id.

[21] Or Laws 2019, ch 619, § 7

[22] Id.

[23] Id.

[24] Id.

[25] ORS 419B.349

[26] ORS 419B.343

[27] ORS 419B.349

[28] ORS 419B.337

[29] ORS 419B.343

[30] ORS 419B.343 and 419B.443

The Times, They are a Changing...

2020 Brings Significant Changes to Juvenile Law

By Amy Miller, YRJ Executive Director

The frantic end to the 2019 legislative session left in its wake some significant changes in the practice of juvenile law. YRJ's Fall 2019 Juvenile Law Reader provided details on immediately-applicable statutory changes; this article summarizes significant bills that take effect January 1, 2020.

Image by Jamie Street

Protective Custody of Children
(HB 2849, Or Laws 2019 ch 594)

Key provisions: The bill provides that a child may be taken into protective custody without a court order only when there is reasonable cause to believe that there is an imminent threat of severe harm to the child, the child poses an imminent threat of severe harm to self or others, or there is an imminent threat that the child's parent or guardian will cause the child to be beyond reach of the court before the court can order the child to be taken into protective custody. If there is reason to know that the child is an Indian child, the child may be taken into protective custody without a court order only when it is necessary to prevent imminent physical damage or harm to the child.

The bill defines "reasonable cause" to mean "a subjectively and objectively reasonable belief, given all of the circumstances and based on specific and articulable facts." "Severe harm" is defined as "life-threatening damage" or "significant and acute injury to a person's physical, sexual or psychological functioning." Procedures for obtaining a protective custody order from the court are also described in the bill. The application for an order must be made by declaration, or, at the applicant's

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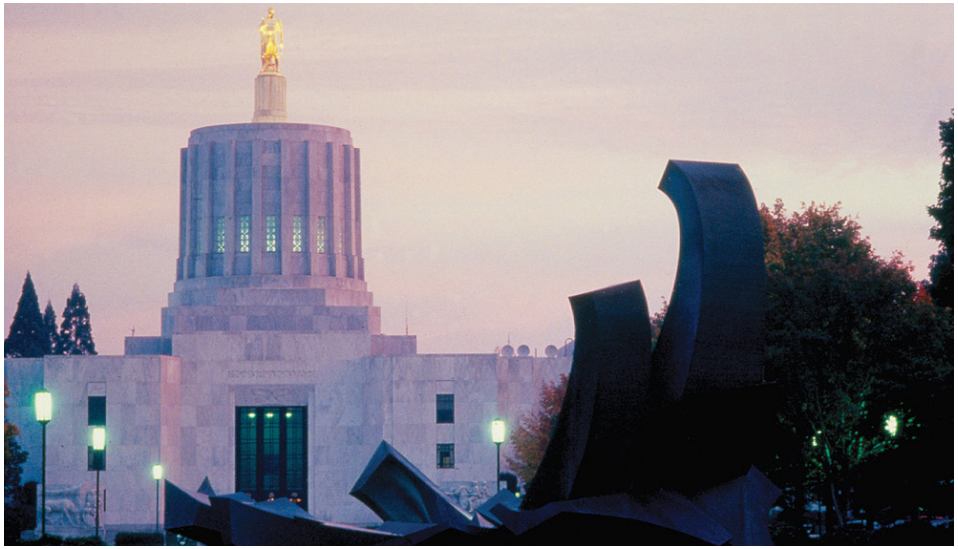
request, an oral statement under oath.

The court may order that a child be taken into protective custody if the court determines that protective custody is necessary and the least restrictive means to: protect the child from abuse, prevent the child from inflicting harm on self or others, ensure that the child remains within the reach of the juvenile court, ensure the safety of a child who has run away from home, or, if the department knows or has reason to know that the child is an Indian child, prevent imminent physical damage or harm to the child. The court must also find that protective custody is in the best interests of the child.

Background: The current standard for protective custody is at odds with case law applying the Fourth and Fourteenth Amendments of the U.S. Constitution. HB 2849, the product of a legislative work group, provides new standards for when a child may be taken into protective custody without a court order that are better aligned with current case law. *See* HB 2849 Staff Measure Summary.



Congregate Care Placements
(SB 171, Or Laws 2019 ch 619)

Key Provisions: This bill limits the use of "congregate care settings," certain residential settings that care for more than one child or ward. Starting on September 1, 2019, DHS may place a child in a congregate care residential setting in this state if the setting is a child-caring agency, a hospital or a rural hospital. Starting on July 1, 2020, the setting must also be a qualified residential treatment program (limited exceptions apply) QRTP requirements are described in the bill, but generally require a higher level of qualified staff and a trauma-informed model to provide specialized series to meet the child's mental, emotional, or behavioral health needs.

When DHS places a child in a QRTP, DHS must move the court for approval of the placement no later than 30 days after placement and the court must hold a hearing and enter an order approving or disapproving the child's placement.

Background: This bill aligns program criteria and funding requirements with the Federal Family First Prevention Services Act of 2018. It reforms child welfare financing streams under Title IV-E and Title IV-B of the Social Security Act to provide services to families at risk of entering the child welfare system toward preventing children from being removed from their families. Family First also seeks to improve the well-being of children already in foster care by limiting funding for children who are placed in a setting that is not a foster family home unless the setting is a qualified residential treatment program (QRTP). *See* SB 171 Staff Measure Summary.

Abbreviated school day programs for foster youth
(SB 475, Or Laws 2019 ch 295)

Key Provisions: The bill prohibits a school district from unilaterally placing a foster youth in an abbreviated school day program without consent of the student's foster parent and, if applicable, educational surrogate. The bill also expands the requirement for written notice provided by school districts to parents and foster parents of students participating in abbreviated school day programs. An abbreviated school day program means an education program in which the district restricts a student's access to instructional hours or services and that results in the student having an abbreviated school day for more than ten school days per school year.

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Background: The bill is intended to ensure foster parents receive notice and are involved in the abbreviated school day process. According to the Department of Human Services (DHS), 11,645 children spent at least one day in foster care in Oregon in 2017. Of them, 6,938 were age six or older. *See* SB 475 Staff Measure Summary.

Criminal record checks prior to release of a child from protective custody
(SB 994, Or Laws 2019 ch 631)

Key Provisions: The person who has taken a child into protective custody must ask DHS to conduct a criminal records check on the noncustodial parent and all adults in the same home as the noncustodial parent before releasing a child in protective custody to a noncustodial parent. DHS is required to comply with the request and conduct a criminal records check.

Background: This bill is intended to provide statewide consistency in conducting criminal records checks before placing children with noncustodial parents. *See SB 994* Staff Measure Summary.

Juvenile Offender Sentencing
(SB 1008, Or Laws 2019 ch 634)

Key Provisions:

- **Age documented on judgment (section 1):** When the court sentences a waived youth to incarceration, the age of the youth at the time of committing the offense must be included on the judgment,
- **Location of confinement (under age 20 at sentencing) (section 2):** When a waived youth is under age 20 at the time of sentencing, was under 18 at the time the crime was committed, and has been committed to the Department of Corrections, the youth must be transferred to the Oregon Youth Authority.
- **Sentencing of waived youth (section 5):** A youth who has been waived to adult court cannot receive a sentence of life imprisonment without the possibility of parole. A youth who has been waived to adult court and sentenced is eligible for conditional release (ORS 420A.203) and second look (ORS 420A.206). Presumptive sentences are listed in ORS 137.707.
- **Elimination of presumptive waiver to adult court (section 6):** Youth charged with a M11 offense are no longer presumptively waived to adult court. The state must file a motion requesting a waiver hearing and the juvenile court may waive the youth to adult court if the state proves, by a preponderance of the evidence that: the youth, at the time of the offense, was of sufficient sophistication and maturity to appreciate the nature and quality of the conduct involved AND retaining juvenile court jurisdiction will not serve the best interests of youth and society. There are a number of factors that the court must consider in the best interests determination. The victim of the offense has the right to appear and provide reasonably related information to the court.
- **Second look/transfer hearings for youth waived to adult court (section 22):** Youth convicted of a M11 offense pursuant to a waiver to adult court are eligible for second look hearings. These youth are also eligible for a transfer hearing at age 24.5 if they have a projected release date that falls between their 25th and 27th birthday. After the hearing, the court may order the youth be conditionally released if the court finds by clear and convincing evidence that the youth has been rehabilitated and reformed, is not a threat to the safety of the victim, victim's family or community, and will comply with conditions of release.
- **Prohibition on life sentence without the possibility of parole (section 24):** A waived youth who was under 18 at the time of committing the offense cannot be sentenced to life without the possibility of parole. The court shall consider relevant circumstances in imposing the sentence.
- **Post-prison supervision (section 25):** A waived youth is eligible for release on post-prison supervision after the person has served 15 years.
- **Victim notification (section 30):** Requires the Dept. of Justice to work with victim assistance programs to develop model policies for providing

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notice to victims for waiver hearings and second look/ transfer hearings so that notice is provided in a trauma-informed and culturally specific manner.

Background: Ballot Measure 11, passed by Oregon voters in 1994, requires mandatory minimum sentences for specific serious crimes and requires young people ages 15, 16, and 17 charged with Ballot Measure 11 offenses to be automatically prosecuted in adult court and, if convicted, sentenced in adult court. SB 1008 is a product of a work group that examined the treatment of Oregon's youth in the juvenile and criminal justice systems. The work group examined case law, brain science, best practices, national trends, and relevant data in an effort to ensure justice for victims, community safety, reformation and accountability for young people, and reducing recidivism. *See SB 1008 Staff Measure Summary.*

Trump Administration Continues to Pursue Indefinite Detention of Migrant Families

By Lisa M. Kahlman, Esq., YRJ Volunteer

In April 2018, the Trump Administration announced a new "zero-tolerance" policy intended to ramp up criminal prosecution of people caught entering the U.S. illegally. Soon after the announcement of the zero-tolerance policy, reports surfaced that unauthorized immigrant parents traveling with their children were being criminally prosecuted and separated from their children. As a result of public outrage at this practice, President Trump signed an executive order ceasing the separation of families in June 2018. But, also in June 2018, the Department of Justice filed a motion with Judge Dolly Gee in the U.S. District Court for the Central District of California seeking to be relieved of certain provisions of the *Flores et al. v. Reno et al.*[1] settlement agreement. Specifically, the Department of Justice sought to eliminate the 20-day time limit that the government can detain minors by seeking permission to "detain alien families together through the pendency of criminal proceedings for improper entry or any removal or other immigration proceedings."[2] The Department of Justice also sought to be relieved of the requirement that family residential facilities run by Immigration and Customs Enforcement ("ICE") obtain state licenses to operate. Judge Gee denied the Department of Justice's request to be relieved of certain provisions of the Flores settlement agreement in July 2018[3], stating that the government failed to show changed circumstances that the parties could not have foreseen at the time the agreement was originally entered into.

The *Flores* settlement agreement was entered into in 1997 and provides that the government must be held to certain standards when holding migrant children in its custody. The settlement agreement stemmed from a 1985 lawsuit over the treatment of a 15-year old migrant from El Salvador, Jenny Flores, and three other minors after they were detained by immigration authorities while trying to enter the U.S. The lawsuit alleged the minors had been subject to strip searches and body cavity searches and were detained with unrelated adults. The lawsuit took aim at a

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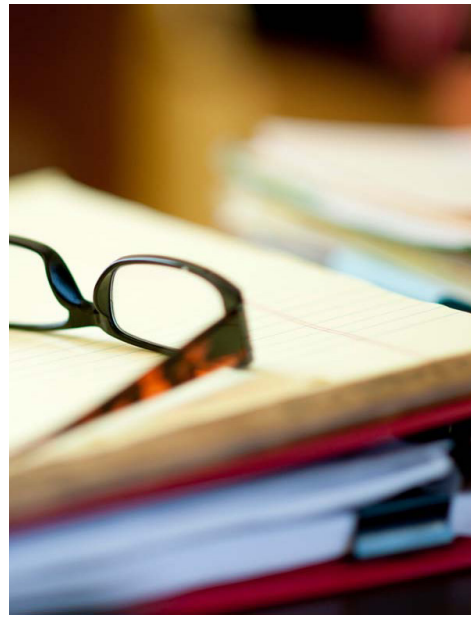
1984 policy implemented by the Western Region of the Immigration and Naturalization Service ("INS") that called for detaining juveniles indefinitely until their parent or legal guardian could come pick them up. The settlement agreement requires the government to release minors[4] from custody within 20 days to (in order of preference) a parent; legal guardian; an adult relative; an adult individual or entity designated by the parent or legal guardian as capable and willing to care for the minor; a licensed program willing to accept custody; or, in the discretion of the INS, an adult individual or entity seeking custody. The settlement agreement was supposed to terminate 45 days after the federal government published regulations implementing *Flores*, which would have freed the federal government's juvenile immigrant detention from court supervision. But, the federal government never published such regulations, so *Flores* has continued to apply.

In September 2018, the Department of Homeland Security ("DHS") and the Department of Health and Human Services ("HHS") released proposed federal regulations that would ultimately lead to the termination of the *Flores* settlement agreement.[5] The proposed regulations would remove limits on the length of family detention and end existing *Flores* requirements that states license facilities that hold children, including family detention facilities. The notice and comment period on the September 2018 proposed regulations closed on November 6, 2018. On November 2, 2018, Jenny Flores et al. (plaintiffs) filed a motion in the U.S. District Court of the Central District of California with Judge Gee to enforce the Flores agreement. Plaintiffs requested that the Court (1) declare the proposed regulations an anticipatory breach of the settlement agreement, (2) permanently enjoin the DHS and HHS from implementing the proposed regulations and (3) if need be, declare that implementation of the regulations constitutes civil contempt. Judge Gee deferred Plaintiffs' motion and ordered the Department of Justice et al. (Defendants) to file a notice upon issuance of the final regulations within seven days of their publication.[6]

On August 21, 2019, DHS and HHS announced a final rule ("Final Rule") that finalized the September 2018 regulations implementing the relevant and substantive terms of the *Flores* settlement agreement, with some changes in response to comments received on the proposed regulations.[7] The Final Rule allows families to be detained together during the length of criminal or civil proceedings and also eliminates the requirement that facilities that house detained families be licensed by a state and replaces it with a requirement that a "licensed facility" includes an ICE facility that is licensed by the state, county or municipality in which it is located.[8] Defendants filed a notice of publication of regulations with the Court on August 21, 2019 and formally published the Final Rule in the Federal Register on August 23, 2019.

The Final Rule was set to go into effect on October 22, 2019 but, under the terms of the Flores settlement agreement, it had to be approved by the federal judge overseeing the case, Judge Gee. Per the deferral of Plaintiffs' motion discussed above, on August 30, 2019, Plaintiffs filed a supplemental brief addressing their motion to enforce the Flores settlement agreement and Defendants filed a notice of termination and motion in the alternative to terminate the *Flores* settlement agreement. The Court held a hearing on both motions on September 27, 2019.

On September 27, 2019, Judge Gee concluded that the Final Rule does not have the effect of terminating the *Flores* agreement, that Defendants did not meet their burden to demonstrate an alternative reason to terminate the *Flores* agreement and that Defendants are enjoined from implementing the Final Rule.[9] In the conclusion of her order, Judge Gee stated "The blessing or the curse — depending on one's vantage point — of a binding contract is its certitude.



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The Flores Agreement is a binding contract and a consent decree. It is a final, binding judgment that was never appealed. It is a creature of the parties' own contractual agreements and is analyzed as a contract for purposes of enforcement. Defendants cannot simply ignore the dictates of the consent decree merely because they no longer agree with its approach as a matter of policy. The proper procedure for seeking relief from a consent decree is a Rule 60(b) motion by which a party must demonstrate that a change in law or facts renders compliance either illegal, impossible, or inequitable. Relief may also come from a change in law through Congressional action. Having failed to obtain such relief, Defendants cannot simply impose their will by promulgating regulations that abrogate the consent decree's most basic tenets. That violates the rule of law." Judge Gee's mention of Congressional action is interesting. In September 2018, Senator Ron Johnson (R-WI) introduced Senate bill 3478 (the FAMILIES Act – Fixing America's Marred Immigration Laws to Improve and Ensure Security). The bill was referred to the Committee on Homeland Security and Government Affairs, but no action has been taken on the bill since its introduction in 2018. Section 602 of the FAMILIES Act proposes to allow detention of minors with their parents through the pendency of civil or criminal proceedings.

Not deterred by Judge Gee's ruling, the government appealed Judge Gee's order on November 14, 2019 and, on November 15, 2019, the 9th Circuit Court of Appeals issued the briefing schedule for the appeal; the government's opening brief is due on February 24, 2020 and Plaintiffs' answering brief is due on March 24, 2020. Although many might wish that the government would take a page from Disney's Frozen and "let it go," this is a fight that will drag on for at least many more months, if not years.

Footnotes

[1] Stipulated Settlement Agreement, *Flores v. Reno*, No. CV 85-4544-RJK(Px) (C.D. Cal. filed Jan. 17, 1997), available at https://youthlaw.org/wp-content/uploads/2015/05/Flores_Settlement-Final011797.pdf.

[2] Defendants' Memorandum of Points and Authorities in Support of Ex Parte Application for Relief from the Flores Settlement Agreement at 4, *Flores v. Sessions*, No. CV 85-4544-DMG, (C.D. Cal. filed June 21, 2018) available at https://assets.documentcloud.org/documents/4549953/Flores-Notice-of-Motion-and-Motion-Re-Settlement.pdf.

[3] Order Denying Defendants' "Ex Parte Application for Limited Relief from Settlement Agreement" at 4, *Flores v. Sessions*, No. CV 85-4544-DMG (AGRx) (C.D. Cal. July 9, 2018), available at https://www.aila.org/File/Related/14111359ac.pdf .

[4] In 2015, Judge Gee ruled that Flores applies both to unaccompanied minors as well as children apprehended with their parents. This ruling resulted from the Obama Administration's violation of *Flores* in 2014 when, in an attempt to address an influx of family migration at the Southern border, it built family detention centers so that families could be detained for longer than 20 days. Order Re Plaintiff's Motion to Enforce Settlement of Class Action and Defendant's Motion to Amend Settlement Agreement, *Flores v. Johnson*, No. CV 85-4544 DMG (AGRx), (C.D. Cal. filed July 24, 2015), available at https://www.aila.org/infonet/district-court-finds-dhs-breach-flores-agreement.

[5] Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children, 83 Fed. Reg. 45486 (Sept. 7, 2018) (to be codified at 8 C.F.R. pts. 212, 236; 45 C.F.R. pt. 410), available at https://www.federalregister.ocuments/2018/09/07/2018-19052/apprehension-processing-care-and-custody-of-alien-minors-and-unaccompanied-alien-children.

[6] Notice of Motion and Motion to Enforce Settlement, Flores v. Sessions, (C.D. Cal. filed Nov. 2, 2018), available at https://youthlaw.org/wp-content/uploads/1997/05/Regs-Motion.pdf.

[7] Apprehension, Processing, Care, and Custody of Alien Minors and Unaccompanied Alien Children, 84 Fed. Reg. 44,392 (Aug. 23, 2019) (to be codified at 8 C.F.R. pts. 212, 236; 45 C.F.R.pt. 410), available at https://www.federalregister.gov/ documents/ 2019/08/23/2019-17927/apprehension-processing-care-and-custody-of-alien-minors-and-unaccompanied-alien-children.

[8] In effect, the detention facilities that would house migrant families would only have to meet standards set by ICE, which runs the facilities themselves.

[9] Order Re Plaintiffs' Motion to Enforce Settlement and Defendants' Notice of Termination and Motion in the Alternative to Terminate the Flores Settlement Agreement, *Flores v. Barr*, No. CV 85-4544-DMG (AGRx) (C.D. Cal. Sept. 27, 2019), available at https://youthlaw.org/wp-content/uploads/2019/06/9.27-Flores-Order.pdf.

Juvenile Law Resource Center

JLRC Contact Information

To receive a call back within two business days from a JLRC attorney for advice, email the workgroup and please include your name, telephone number, county, and brief description of your legal question.

CASE SUMMARIES

By Matt Steven, YRJ Attorney

Dependency

Dept. of Human Services v. D. M. D., 301 Or App 148 (Dec. 4, 2019)

Father appealed the juvenile court's judgments changing the permanency plan of his two children to adoption, arguing that DHS' delays in ordering batterer's intervention constituted a lack of reasonable reunification efforts. The Court of Appeals affirmed.

The juvenile court had jurisdiction due to father's admissions of substance abuse, domestic violence, and an unsafe home. By the time of the permanency hearing, the children had been in substitute care for a total of 50 of the previous 66 months, counting father's previous dependency case. The court ordered DHS to provide batterer's intervention treatment "within one week" in an April 2018 review order. DHS did not provide it until November 2018. Father's psychological evaluation recommended a full year of sobriety prior to entering batterer's intervention. That did not happen; father had several arrests and did not achieve sobriety until he entered treatment as part of a deferred sentencing program. DHS referred father after seven months of sobriety.

The Court of Appeals agreed with the state that the delay in referring father to batterer's intervention would have been unreasonable in light of the evaluation's recommendation. The court noted that father had not appealed from the reasonable efforts findings in either of the two review hearings between April 2018 and November 2018. DHS had made referrals for treatment and facilitated communication between father and the children, and the record otherwise showed that DHS "gave father a fair opportunity" to adjust his behavior and become a safe parent during the past five years, the majority of which the children had been in foster care.

Dept. of Human Services v. M. C. D. B., 301 Or App 52 (Dec. 4, 2019)

Mother appeals the termination of her parental rights to her son, arguing that the juvenile court abused its discretion by not granting her a continuance for the termination trial. The court clearly explained to mother that if she failed to personally appear, she would be defaulted. At a subsequent hearing, mother informed the court that she intended to move to Arizona. Mother asked DHS to provide airfare for her children to visit her there, and airfare and hotel accommodations to permit her to attend the termination trial. DHS called the requests "exorbitant" and offered her bus fare instead. Mother failed to appear at the trial, and the court entered a judgment of termination.

Affirming, the Court of Appeals noted that in cases like Dept. of Human Services v. K.M.J., 276 Or

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App 823 (2016) there was a doubt about whether "a parent with mental illness and borderline intellectual functioning had actually read, comprehended, and remembered the warning provided in a summons issued almost a year before the termination hearing." By contrast, the record in this case "leaves no doubt" that mother understood the consequences of failing to appear, telling the court "If I understood you correctly, if I don't appear, it's basically the state wins by default."

Dept. of Human Services v. L. S., 300 Or App 594 (Nov. 20, 2019)

Father appealed the juvenile court's judgment's denial of his motion to dismiss and change of child's plan to adoption, arguing that his proposed plan for child to be in a guardianship while he was in prison ameliorated the threat of harm. Father was incarcerated for the sexual abuse of another child that he had lived with and parented, expected to be released in 2046. Previously the Court of Appeals in Dept. of Human Services v. L. L. S., 290 Or App 132 (2018) had agreed with father that the state had failed to prove that it had made reasonable efforts to reunify father with child Z, vacating an earlier judgment changing the plan to adoption and a judgment terminating father's parental rights to Z.

Here father moved to dismiss the case because a probate guardianship with Z's grandparent was an available means to ameliorate the risk of harm posed by his incarceration. The juvenile court found in its letter opinion:

> "Father made clear that he proposed this plan precisely because it is the one best calculated to achieve his goal of regaining custody of the Child with as little resistance as possible. In other words, he is proposing this plan because he believes it is the one he can most quickly and easily dissolve."

The Court of Appeals recited the standard for a motion to dismiss, that it involves a two-part inquiry: 1) does the original jurisdictional basis continue to pose a current threat of serious loss or injury, and 2) does it present a threat that is likely to be realized. The presence of a potential alternative caregiver must be considered by the court. The burden is with DHS as the proponent of continued jurisdiction.

Grandmother opposed the probate guardianship; although Z was very attached to her, he showed signs of PTSD, separation anxiety, and difficulty trusting others. She was willing to adopt him, but she worried "efforts by father to dissolve the guardianship or resolve disputes over Z's care in court would further disrupt Z's life, when what he needs is permanency and stability." Alternatively, father proposed that his friend was willing to be a guardian, but his friend did not follow through on necessary foster parent paperwork.

The Court of Appeals ruled that evidence supported the juvenile court's conclusion that "father only proposed the probate guardianship because it would be the easiest guardianship to dissolve and regain control of Z," and affirmed. The court noted that father had not even discussed the possibility of a guardianship with grandmother.

Dept. of Human Services v. C. L. M., 300 Or App 603 (Nov. 20, 2019)

Mother appealed the juvenile court's denial of her motion to dismiss on the grounds that she had completed services intended to ameliorate her use of "inappropriate discipline" with her child. Though DHS agreed with mother that she had succeeded, it asked for jurisdiction to continue for 90 more days to permit continued family counseling. Child opposed mother's motion, arguing that continuing assistance from DHS was required. The juvenile court ordered the petition to be amended to add a new allegation to reflect the mother's inability to meet the child's emotional needs and scheduled a new trial on the allegation. That order was later vacated by the court.

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On appeal, mother and DHS agreed that jurisdiction was no longer warranted because mother had ameliorated the jurisdictional basis. The court noted that the child did not appear in the appeal. The Court of Appeals accepted the concession, and offered a relevant interpretation of a recent Supreme Court opinion:

> "We do note that recently the Supreme Court has stated that 'the court may be able to assert jurisdiction based on * * * new circumstances' that endanger a ward's safety, when the original factual bases for jurisdiction no longer exist. Dept. of Human Services v. J. C., 365 Or 223, 235, 444 P3d 1098 (2019) (citing ORS 419B.809(6) ("The court on motion of an interested party or on its own motion, may at any time direct that the petition be amended.")). We understand that statement to reflect that a juvenile court may continue jurisdiction where it has adjudicated additional jurisdictional facts based on new allegations that have been added in an amended petition, but not that a court can continue jurisdiction and hold a case open to allow an amended petition to be filed at a later date when the original factual basis has ceased to exist."

The Court of Appeals reversed and remanded.

Dept. of Human Services v. T. L. H., 300 Or App 606 (Nov. 20, 2019)

Father appealed the juvenile court's order that he be required to submit to a psychological evaluation, arguing that under Dept. of Human Services v. D. R. D., 298 Or App 788 (2019) the court had no authority to order it as "treatment or training." The Court of Appeals affirmed, reasoning that the record supported that it was necessary to "prepare the parent to resume the care of a child because of the child's particular needs."

Father and child each had significant challenges. Father faced struggles with drug addiction and homelessness and housing instability, but ultimately secured housing. Child had a range of issues including adjustment disorder, anxiety, ADHD, severe asthma, and neglect, for all of which he was receiving a range of services.

Father continued to struggle with sobriety, however, missing about half of his visits with child and appearing "scattered" when he did show up. He missed UA tests and DHS became concerned enough to file a motion requesting that he submit to a psychological evaluation.

DHS pointed to the child's high needs as a basis to "assess the father's ability to maintain a stable residence" while parenting. DHS also included an affidavit from the case worker accompanied by evidence of the child's high needs as well as father's own history of child abuse, PTSD, and need for treatment.

The court heard the matter, and the case worker provided testimony confirming these issues. She said that an evaluation was the only means by which she could "assess father's ability to process specialized

information."

Father pointed to his success at obtaining housing, that his counselor had recommended that DHS allow overnight visits, and that he had completed drug and alcohol treatment and a parent mentorship program. Father explained some of his absences from appointments as transportation challenges. Some of father's evidence was refuted by the state.

The court ordered father to complete the evaluation, and it was done in April 2019. Father appealed, arguing that the evaluation is not "treatment

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or training" as authorized by ORS 419B.387. DHS moved to dismiss the appeal as moot, since father had submitted to the evaluation.

Father successfully argued that the case was not moot because the written evaluation could continue to be used against him in upcoming proceedings. Father's argument that such a report is "forensic" not "therapeutic" did not fare as well. The Court of Appeals held that the evaluation was permissible because the record established "a need for treatment or training to meet the needs" of the child and to aid father in his resumption of parenting and affirmed.

Dept. of Human Services v. A. D. J., 300 Or App 427 (Nov. 6, 2019)

Mother appealed the juvenile court's judgment changing the case plan for her two children to adoption. Both children had elevated needs. Mother made two arguments on appeal. First, that the record did not support the court's findings that she had failed to make sufficient progress in her parenting skills. Second, that a general guardianship would better suit the needs of her children than adoption. The Court of Appeals rejected both.

Regarding the sufficiency of the evidence, the Court of Appeals found that the juvenile court's finding was supported: mother had missed "multiple UAs" and "three of eight individual sessions and six group sessions" in therapy, she failed to engage with a mentor, and her interactions in observed visits with the children revealed a lack of progress.

The juvenile court's finding that adoption was in the best interests of the children was also supported because a general (or, "durable") guardianship would be less permanent than either adoption or a permanent guardianship. Mother could move to vacate a general guardianship at any time under ORS 419B.368(1). Mother did not advocate for a permanent guardianship.

Dept. of Human Services v. T. S. J., 300 Or App 36 (Oct. 16, 2019)

After making admissions to the juvenile court that her mental health and parenting skills prevented her from safely parenting, mother appealed the resulting judgment, arguing that the juvenile court plainly erred by taking jurisdiction on those facts without sufficient supporting evidence. DHS argued that if there was an error, mother invited it, and that the Court of Appeals should therefore not exercise its discretion to correct it.

DHS also argued that the Court of Appeals should overrule Dept. of Human Services v. D. D., 238 Or App 134, 138, 241 P3d 1177 (2010), rev den, 349 Or 602 (2011), which mother relied on for the proposition that "although a parent can stipulate to facts supporting jurisdiction, the parent cannot stipulate to juvenile court jurisdiction itself." That decision also explained that on review:

> Where the parent waives the right to have DHS prove its allegations, we are not concerned with the sufficiency of the evidence on appeal. Rather, we consider only whether, pursuant to the allegations, DHS would have been allowed to offer evidence that would establish juvenile court jurisdiction.

Applying that standard, the stipulated jurisdictional facts were sufficient to support jurisdiction. The parents had waived their right to have DHS put on evidence, however the stipulated facts themselves could be construed to support jurisdiction. The Court of Appeals affirmed.

Dept. of Human Services v. C. M. D., 300 Or App 175 (Oct. 16, 2019)

Mother appealed the juvenile court's judgment continuing her son's permanency plan of adoption, arguing that the child wishes to live with her, and that she had made some progress in her ability to parent him. DHS agreed that the plan should be changed from adoption because the child's significantly high needs would make adoption unlikely.

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The son did not participate in the appeal, thus there was no briefing in defense of the juvenile court's decision.

The Court of Appeals found that evidence in the record supported the juvenile court's ruling that the adoptability concern was not a compelling reason to forgo adoption. The court clarified "that a child's permanency plan should not be changed to adoption where there is persuasive evidence that adoption is unlikely to be achieved." By example, where DHS had used "all the recruitment resources possible" such a showing could be made, but if the adoptability arguments were "speculative" and not supported by the record, the court was not required to find that adoption was unlikely.

The Court of Appeals found it important that neither mother nor DHS put any direct evidence about the likelihood of adoption into the record. As for indirect evidence, there was some evidence of improvement of the son's behaviors and that mother had located a prospective adoptive resource within the family. The Court of Appeals affirmed the judgment, finding that "on this record, we cannot say that the juvenile court erred in continuing the plan of adoption."

Dept. of Human Services v. K. S. W., 299 Or App 668 (Oct. 9, 2019)

In this Indian Child Welfare Act (ICWA) case Father appealed the juvenile court's judgments establishing guardianship over his children I and K arguing that the court erred by establishing a guardianship over K without making an active efforts finding prior to the proceeding establishing the guardianship, pursuant to 25 USC § 1912(d), which requires that anyone seeking to effect a foster care placement must prove that active efforts have been made to prevent the breakup of the Indian family.

The juvenile court took jurisdiction over I and K in 2015, when paternity was only established as to I. In 2017, the court changed the plan for both children to guardianship. In 2018, the juvenile court established jurisdiction over K as to father, as paternity had been established. It made a finding in the jurisdictional judgment that active efforts at reunification had been made as to father and continuing guardianship.

Father argued that the active efforts finding would need to be made at a permanency hearing after the jurisdictional hearing. There had only been a jurisdictional hearing as to K by the time guardianship was established.

The Court of Appeals found it sufficient, however, that an active efforts finding was made in the 2017 hearing as to both children, and a finding as to K was made in the 2018 jurisdictional judgment.

Dept. of Human Services v. R. A. B., 299 Or App 642 (Oct. 2, 2019)

On remand from the Supreme Court, the Court of Appeals revisited its decision in *Dept. of Human Services v. R. A. B., 293 Or App 582 (2018)*, in which it held that the exclusion of mother's expert witness as a discovery sanction was harmless error.

Reconsidering that decision under State v. Black, 364 Or 579 (2019), the court concluded that the error was not harmless because of the possibility that "at least some of Poppleton's testimony is admissible" under Black. In Black, the Supreme Court held: the "proposed testimony would not have provided jurors with [the expert's] opinion on the truthfulness of GP or JN. Rather, [the] testimony would have identified the ways in which the interviews * * * fell short of established interviewing protocols." Observing that the "testimony here closely mirrors the proposed testimony in Black" and that "in Black, the Supreme Court declined to label all of that testimony as vouching," the court concluded that because the testimony "would be highly relevant" if admissible, the error warranted reversal and remand to the juvenile court.

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Dept. of Human Services v. A. M. B., 299 Or App 361 (Sep. 11, 2019)

Mother appealed the juvenile court's denial of her motion requesting unobserved urinalysis, and the Court of Appeals affirmed. Mother admitted that her substance abuse, if left untreated, interfered with her ability to safely parent. An evaluator concluded that mother did not require treatment, however DHS required her to participate in the urinalysis hotline, where she was ultimately asked to give a sample while being observed urinating. As evidence, mother provided an affidavit explaining her personal reactions to the process.

Mother argued that the observed urinalysis was an unreasonable search under the state and federal constitutions because it violated her right to privacy and bodily integrity. The Court of Appeals, following the assumptions of the parties, assumed that mother had the burden of production. It found that the lack of evidence "of any DHS contracts concerning observed testing at any collection site" and the otherwise "sparse" record on appeal rendered it "impossible to assess whether this type of administrative search is reasonable" under the state and federal constitutions.

Delinquency

State v. D. M. B., 300 Or App 817 (Nov. 27, 2019)

Youth was found within the jurisdiction of the juvenile court for rape in the third degree and sexual abuse in the second degree. On appeal youth asserted that under State v. K.R.S., 298 Or App 318 (2019), which held that the anti-merger statute ORS 161.067(1) applies to juvenile adjudications, the court erred by not merging the counts. The state conceded the error. The Court of Appeals agreed with youth and the state that the juvenile court plainly erred by not merging the adjudications under State v. Breshears, 281 Or App 522, 555 (2016), reversed the judgment, and remanded it to the trial court to correct the error.

State v. J. M. E., 299 Or App 483 (Sep. 18, 2019)

Youth appealed a judgment ordering him to reimburse the Crime Victim Compensation Program (CVCP) for the victim's medical expenses in his assault case. Youth argued that the state failed to prove the reasonableness of a hospital bill in the amount of $4,745.49—specifically that the hospital bill alone was insufficient evidence under *State v. McClelland*, 278 Or App 138 (2016).

The state responded that because the payment was going to the CVCP, an agency required to pay only *reasonable* medical and hospital expenses per ORS 147.035(2)(a), the court should presume that any amounts paid by the CVCP were reasonable, citing *State v. Campbell*, 296 Or App 22 (2019).
The Court of Appeals disagreed with the state for two reasons. First, no witness testified that the amount paid by CVCP was "at or below the market rate for those services, nor was there any other evidence as to the reasonableness of the medical bill." Second, the holding of *Campbell* that Medicaid rates are presumptively reasonable as a matter of law, was only permissible because Medicaid rates are set by a "complex statutory and regulatory scheme" involving state and federal law that "reflect the usual and customary fees at or below the local market rate, taking into account what doctors, consumers, and other stakeholders consider reasonable."

The court observed that the statutes governing the CVCP are not comparable to those informing Medicaid rates. They "do not dictate how reasonable medical fees are to be determined, who is to participate in that determination, or what relationship, if any, they must bear to prevailing market rates."

The Court of Appeals vacated the judgment and remanded it to the juvenile court.

Book Review

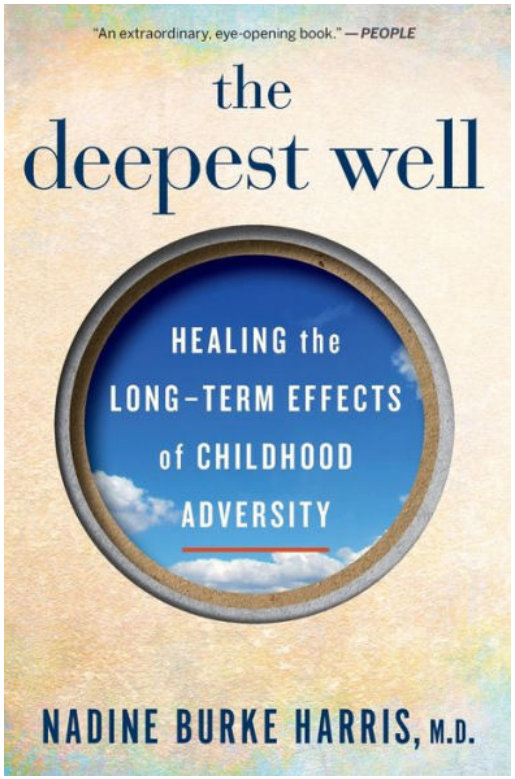
The Deepest Well: Healing the Long-Term Effects of Childhood Adversity

by Nadine Burke Harris, M.D.

Report by Erica Hayne Friedman, YRJ Attorney

"Every day I witnessed my tiny patients dealing with overwhelming trauma and stress; as a human being, I was brought to my knees by it. As a scientist and a doctor, I got up off those knees and began asking questions." - Dr. Burke Harris

The Deepest Well focuses on the impact that adverse childhood experiences (ACEs) can have on a person's growth and development, physical health, and long-term well-being. The term ACEs comes from the Adverse Childhood Experiences (ACE) Study, first conducted from 1995 to 1997. The purpose of the ACE study was to determine why many common diseases were not randomly distributed in the population—in other words, why risk factors for chronic illnesses tended to cluster in particular people. The primary finding of the ACE Study is that exposure to childhood adversity (defined by the ACE study as abuse, neglect, and household dysfunction) is a stand-alone risk factor for a host of chronic illnesses and early death. Moreover, the relationship between the number of ACEs and an individual's risk of developing chronic illness was shown to be exponential.



The general causal chain for ACE exposure is as follows: adverse childhood experiences lead to disrupted neurodevelopment, which leads to social, emotional, and cognitive impairment. Such impairment leads to the adoption of health-risk behavior, which in turn leads to disease, disability, and social problems, which then leads to early death.

The Deepest Well recounts how the ACE Study influenced Dr. Burke Harris's medical practice and ultimately drove her to advocate for universal ACE screening and multi-disciplinary teams as best practices in pediatric healthcare. Using plain language, The Deepest Well explains how toxic stress impacts the body down to a cellular level by hijacking the body's fight-or-flight response. The book outlines how such experiences can shape the development of brain and body, and how toxic stress can even cause epigenetic changes that can be passed down through generations.

Dr. Burke Harris's discussion of the ACE study is punctuated by stories from her work at a pediatric clinic in a low-income community of color. In that clinic, she found it striking that many of her young patients who suffered from conditions like asthma, obesity, and ADHD shared one commonality—they had all experienced some type of traumatic event or significant stressor in their young lives. For some of her patients, she was able to directly trace the condition's onset to a particular traumatic event, such as an incident of sexual abuse or exposure to domestic violence. Using the ACE study as a jumping off point, Dr. Burke Harris adopted practices in her clinic that included screening every child for ACEs and bringing therapists and social workers onto healthcare teams. She also worked to develop opportunities for parents and children to learn about healthy lifestyles and foster resilience. The Deepest Well pushes back at those who fear that universal ACE screening will lead to the stigmatization of already-marginalized people. For Dr. Burke Harris, identifying the problem

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is the first step toward developing solutions, and those solutions have the potential to improve many lives and reduce a great deal of suffering. Moreover, Dr. Burke Harris's own life demonstrates that exposure to ACEs doesn't preclude a person from living a productive, satisfying life. Instead, Dr. Burke Harris views awareness of one's ACE score as a path to empowerment. For her, screening for ACEs allows educators, service providers, and caregivers to focus their efforts on counteracting the negative consequences of toxic stress, giving children a fighting chance at overcoming the odds. Of course, positive outcomes very much depend on the availability of resources, including mental health care, which is not a given in many places. Moreover, some may prefer to remain ignorant of their level of risk, given that they are unable to change what happened in childhood. The Deepest Well doesn't purport to answer all of the policy questions that it raises; it's the start of a conversation, not the end of one. The book's goal is to clearly articulate what the evidence shows and which efforts have been productive thus far. The question that it poses is: what are we, as a society and as individuals, going to do about it?

For juvenile law practitioners, the Deepest Well raises the stakes of our work. We have all witnessed the consequences of toxic stress for our clients, manifesting as ADHD and developmental delays in children, as health-risk behavior in teens, and as substance abuse and mental illness in adults. The Deepest Well paints a devastating picture of the ways in which ACEs can derail a life, sometimes even before a child has learned to speak. Thankfully, professionals in legal, medical, and educational systems are already working to confront the challenge presented by The Deepest Well. Given the pervasiveness of toxic stress and its enormous consequences for our clients, Dr. Burke Harris's story deserves the thoughtful attention of the juvenile law community.

Save the Date

Oregon State Bar Juvenile Law Conference
February 7, 2020
OSB Center

Trauma Informed Oregon
"Trauma: The What, Why and How We Can Respond"
February 18, 2020
Oregon Family Support Network – Training Room
4275 Commercial St. SE, Suite 180, Salem, OR 97302

Juvenile Training Immersion Program
April 23-24, 2020
Agate Beach Inn, Newport

OCDLA Juvenile Law Conference
April 24-25, 2020
Agate Beach Inn, Newport





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