

The Juvenile Law Reader

Oregon Legislature Passes HB 3075-A; Bill Aimed at Promoting School Stability for Children in Foster Care



The Oregon Senate passed House Bill 3075-A with a 25-1 vote on July 1, 2005. The House had passed the bill with a 55-0 vote on June 17th. As of this writing, the bill awaits the Governor's signature. It will go into effect immediately upon becoming law.

The bill, drafted by attorneys at the Juvenile Rights Project, Inc., is intended to reduce the number of school changes children in foster care experience. DHS estimates that roughly 30% of school-age foster children move within a given school year.

The bill creates an exception in ORS 339.133, Oregon's school residency statute. It says that: "when a juvenile court determines that it is in a child's best interest to continue to attend the school that the child attended prior to placement by a public agency, the child:

"(A) Shall be considered resident for school purposes in the school district in which the child resided prior to placement; and

"(B) May continue to attend the school the child attended prior to the placement through the highest grade level of the school.

"(b) The public agency that has placed the child shall be responsible for providing the child with transportation to and from school when the need for transportation is due to the placement by the public agency...."

The bill stipulates that the public agency, the Department of Human Services, is required to provide transportation subject to funds designated for this purpose. DHS has earmarked \$350,000 in SOC flex funds for each school year during the 2005-07 biennium for this purpose.

The bill also amends ORS 419B.192(2)(c), which guides DHS in choosing foster homes, to read: "The ability of the person being considered to meet the child or ward's physical, emotional and educational needs, **including the child or ward's need to continue in the same school or**

educational placement".

Finally, the bill amends ORS 326.575, which relates to school records transfer. Existing law gives a school district 10 days to request records for a new student and the previous district 10 days to send them. The timelines under HB 3075A are cut in half when the student is a child in substitute care.

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Practical Lessons from the Casey Study

By Mark S. McKechnie, MSW

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Last month's issue provided a summary of key outcomes from the 6-year study conducted by the Casey Family Foundation and three major research universities on foster care alumni in Washington and Oregon. The report also includes recommendations based upon its findings.

Researchers examined three life domains for each foster care alumnus included in the study: Mental Health, Education, and Employment and Finances. Using regression analysis, researchers sought to determine the "optimal" foster care experiences that would lead to positive outcomes in adulthood.

Using this methodology (which is described in much greater detail in the report), they identified "optimal" experiences and the corresponding reduction in negative outcomes. Among the "optimal" foster care experiences were:

- Low number of placements (3 or fewer)
- Low length of time in care (3.5 or fewer yrs.)
- Low placement change rate (0.61 or fewer placement changes per year)
- Low number of school changes from elementary through high school (6 or fewer changes)

- Could participate in, or obtain, supplemental education services and tutoring
- High amount of resources when leaving care (3 resources, including: a driver's license, dishes and utensils and \$250 in cash)
- Had a mentor growing up
- Participated in a lot of activities with foster family Positive parenting by foster parents
- Felt loved while in foster care.

Optimizing the variables in the "placement history and experience" area would lead, according to this analysis, to a 22% reduction in negative mental health outcomes and a 17.8% reduction in negative education outcomes. Optimizing the variables in the "education services and experience" area would lead to a 13% reduction in negative outcomes in the mental health domain, according to the model. (For analysis and recommendations, see pages 40 - 52 of the "Improving Family Foster Care: Findings from the Northwest Foster Care Alumni Study" report at:

http://www.casey.org/NR/rdonlyres/4E1E7C77-7624-4260-A253-892C5A6CB9E1/300/nw_alumni_study_full_apr2005.pdf



DHS Policy Change

DHS field staff were notified of action CW-AR-04-004 via e-mail on June 7th. Nancy Keeling, DHS Office of Safety and Permanency for Children Administrator, issued the following direction: "When a 'non-reasonable efforts' finding is received from the Juvenile Court or Citizen Review Board, the case worker shall notify their immediate supervisor and Child Welfare Manager... The notification shall include the case name, case worker name, the date... and a brief explanation of the finding." Managers are then expected to forward the information to administrators in Salem.

News Briefs

Ignoring the elephant in the room won't protect kids

Richard Wexler, executive director of the National Coalition for Child Protection Reform, wrote an article which ran on May 31, 2005, in **The Oregonian's** "In My Opinion" section. The commentary explains that Oregon's caseworkers are overloaded because the state removes children at an alarming rate — more than 50% above the national average.

Mr. Wexler points out that Oregon removes more children per capita than all but 14 other states.

When some children may be wrongfully removed, the justification has long been that it is better to "err on the side of the child." However, when a child is placed into foster care, she often loses her family and, potentially, her whole support system, including teachers, friends and classmates.

Mr. Wexler cites a study from the University of Florida which found that, among children who tested positive for cocaine at birth, those who were left with their birth mothers fared better on developmental measures than those who were placed in foster care.

Numerous studies, including the recent

Casey report, conclude that foster youth, especially those with multiple placements, have emotional trauma that could effect them for a lifetime. The op-ed piece can be found at:

<http://www.oregonlive.com/opinion/oregonian/index.ssf?/base/editorial/1117274767112360.xml&coll=7>

Study reveals bipolar disorder affects youth more severely than adults

A recent study tracking bipolar youth finds that the illness is more difficult on youth than on adults. **USA Today** ran this article on May 23, 2005. The findings, which followed 300 children between age 7 to 18, came from researchers led by Boris Birmaher, M.D., at the University of Pittsburgh Medical School. They found that children cycle much more quickly through manic and depressed moods than adults. The youth in the study averaged 16 cycles of mood changes a year in contrast with 3.5 for adults.

Another treatment difficulty the study raised was that youth are often misdiagnosed with ADHD or other behavioral problems. Stimulants and/or anti-depressants that are often given can actually make the bipolar symptoms much worse.

For more information on Bipolar disorder in youth, please visit "The Child and Adolescent Bipolar Foundation (CABF)" at www.bpkids.org and The National Mental Health Association at www.nmha.org.

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OYA Women's Work Group Makes Recommendations

By Trisha Gonzalez, Summer Law Clerk from University of Oregon School of Law

Oregon is concerned with the fate of young women, particularly those troubled youth who may be falling through the cracks of the juvenile justice system. Due to budget cuts that created a considerable decrease in community resources and correctional facilities for young women, a workgroup was commissioned to take a serious look at the problem. The group, including professionals and providers from OYA, juvenile departments and the courts made recommendations in a report presented to the Ways & Means Public Safety Sub-Committee.

Young women are first introduced to the Oregon Youth Authority (OYA) upon commitment to the youth corrections system in juvenile court. To keep female offenders out of OYA facilities, prevention and educational resources must be available. However, most of these services have been severely cut, leaving young women stuck in correctional institutions without the benefit of adequate education or intervention. The group also said that budget cuts have forced some female youth offenders out of close custody facilities prematurely.

Budget cuts have adversely affected the continuum of services for youth offenders and for females, in particular.

Findings from the workgroup show that the number of young women served by Hillcrest and the Corvallis House Transition Program for Young Women has dropped from 143 to approximately 63. There are now two units for females at Hillcrest, with a total capacity of 50. Previously there were four units for young women.

This reduction, along with a predominantly male environment at Hillcrest (there are 8 living units available for young men), leads to additional challenges, including: providing gender-specific programs for the young women in Hillcrest; maintaining a stable, "planful" transition for young women there; and effectively preventing sexual harassment and re-traumatization of young women by the disproportionate number of young men residing at Hillcrest.

The group's recommendations include proposals in four specific areas: (1) System-Wide, (2) Close Custody, (3) Community and (4) Implementation. System-wide suggestions include providing a continuum of services and programs that are gender-specific. Some examples are shelter care, foster/proctor care, residential treatment and transition services.

The group recommends using a single facility for close custody that is gender-specific. This would allow young women the opportunity to access a full range of programs specific to their individual needs and issues.

In terms of community services, the workgroup recommends re-instating shelter care services for young women, adding a 45-90 day secure drug/alcohol and mental health stabilization program and collaborating with Oregon Juvenile Department Directors Association to address services that may be appropriate for young women.

The final area, implementation, proposes establishing an interim work group that includes participation and input by the Coalition of Advocates for Equal Access for Girls. This group would report recommendations and progress of agency implementations to the Oregon Legislature.



Research in Brief

Two recent articles discuss the harm of multiple placements on youth in foster care.

"Forming Attachments in Foster Care: Infant Attachment Behaviors during the First Two Months" discusses the development of attachment relationships between foster infants and their caregivers over the first 2 months of placement. The research was drawn from an ongoing study of infants in foster care conducted at the University of Delaware in collaboration with the Baltimore City Department of Social Services and the Delaware Department of Family Services. The results showed that infants placed at younger ages with "autonomous" foster parents displayed higher early and overall levels of secure behavior, less avoidant behavior and more coherent attachment strategies compared to infants placed with "non-autonomous" foster parents. (*Source: Development and Psychopathology*, Vol. 16, pp. 253-271, 2004)

Children and Youth in Foster Care: Disentangling the Relationship between Problem Behaviors and Number of Placements examined the relationship between changes in placement and problem behaviors in a group of foster children over a 12-month period. The sample was composed of 415 youth who entered foster care in San Diego, California. The foster youth were in placement for at least five months. Results of the study indicate that both volatile and multiple placements have an adverse effect on the internalizing and externalizing behavior of foster children. (*Source: Child Abuse & Neglect*, Vol. 24, No. 10, pp. 1363-1374, 2000)

100 years of Oregon Juvenile Court

On June 10, 2005, Multnomah County celebrated the 100th birthday of Juvenile Court at the Juvenile Justice Complex. For a discussion on the history of the Multnomah County Juvenile Court, see **"Juvenile Court Grows Up"** in the June 2005 issue of the Oregon State Bar Bulletin.

CASELAW UPDATES

Jamshidnejad v. Central Curry School Dist., 198 Or App 513

The Oregon Court of Appeals reversed and remanded an appeal that claimed free speech violations under the First Amendment. In March of 2001, plaintiff Jamshidnejad, an 8th grade student at the time, was suspended for four days. This suspension came about after an allegedly disruptive occurrence with the student body involving derogatory petitions naming a teacher and the principal. After a thorough discussion of the First Amendment as it applies to student speech, the Court of Appeals remanded the case to the trial court which had previously entered summary judgment for the defendant. The Court of Appeals held that there were disputed questions of fact as to whether the student actually participated in the speech (a petition with derogatory comments

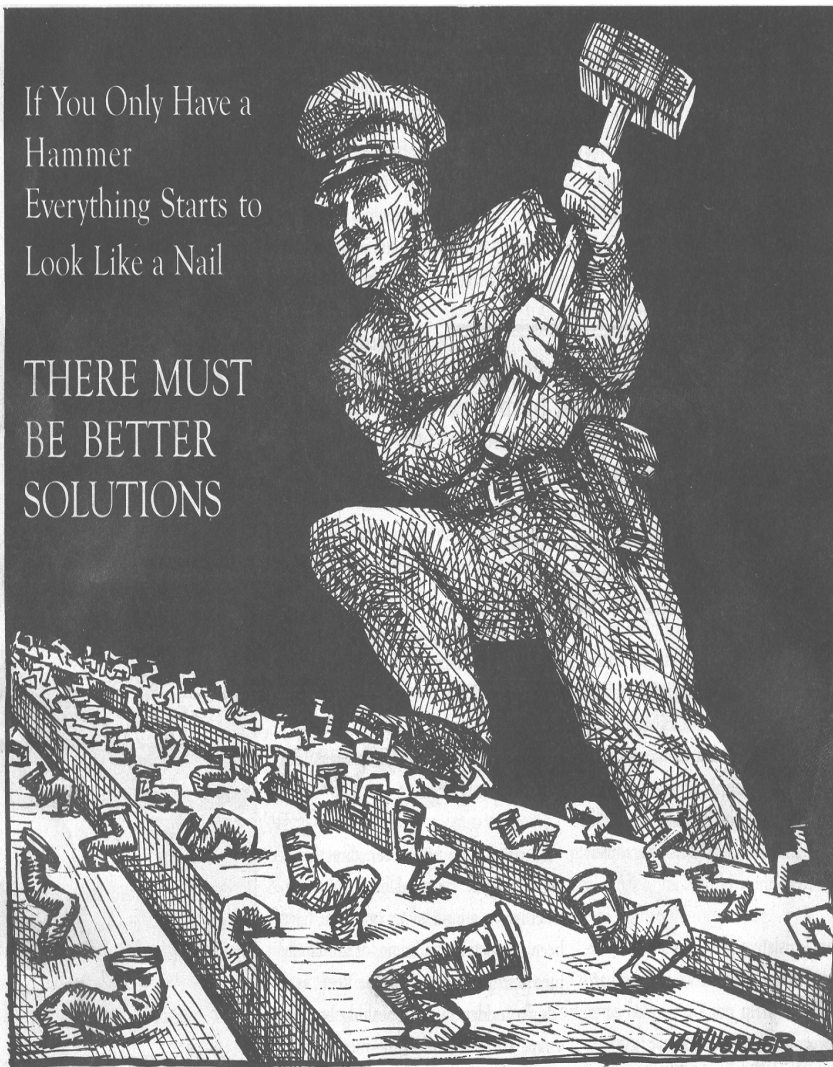
about school staff) and whether the speech was "disruptive or potentially disruptive of the school environment."

Blake v. State, MD case 381 Md. 218, 849 A.2d 410, April 18, 2005

On April 18, 2005, the United States Supreme Court granted cert on a Maryland case involving a juvenile. After being arrested for suspected murder, Blake, then 17, was advised of his Miranda rights. Afterwards, Blake reportedly immediately asked to speak with a lawyer. While in custody, police officers told Blake his friend had blamed him for the crime and that Blake was eligible for the death penalty. Blake then asked to speak with a detective and issued a statement. The issue for the Supreme Court is whether Blake voluntarily gave a statement to police or was frightened into doing so.

If You Only Have a
Hammer
Everything Starts to
Look Like a Nail

THERE MUST
BE BETTER
SOLUTIONS



New practices in Texas focus on mental health needs of youth in justice system

Research cited in *Youth and Mental Health Disorders: Issues and Emerging Responses* published in 2000 in the Office of Juvenile Justice and Delinquency Prevention Journal estimates that 20% of youth involved in state juvenile justice systems suffer from severe mental health disorders. Since juvenile justice systems pay inadequate attention to the mental health needs of youth, the state of Texas has taken the lead and aims to correct this forgotten area. Some plans of change include: taking a holistic approach, establishing a special needs diversionary program, and having special training in the area of youth mental health. To view this article in its entirety, please visit:

<http://www.connectforkids.org/node/3071>

Seven Tips for Improving the Child Welfare System

Over the past two decades, a major effort has been made to improve the child welfare system. Sadly, though, the number of children entering the foster care system has continued to increase. Even more disturbing, children are still cycling from home to home without reunification or adoption.

To address these issues and come up with some possible solutions, Judge Ernestine S. Gray from New Orleans offers 7 suggestions to improve the child welfare system:

1. Invest in prevention
2. Increase the number of professional staff that work in the juvenile system
3. Assign appropriate caseloads
4. Implement concurrent planning
5. Provide services immediately
6. Increase professional collaboration
7. Engage Communities

In order to make improvements Judge Gray says that, "We do not need another piece of legislation. We just need to enforce the laws that are already on the books, adequately fund the child welfare and court systems, and make decisions that support the belief that the children of our state are its most precious resource."

To view this entire excerpt, please go to:

<http://www.abanet.org/child/databas e/courtimprovement/Sevensteps>.

Upcoming CLE for New Juvenile Lawyers

ESSENTIALS OF JUVENILE COURT PRACTICE - October 2005

Don't forget to save the date for this important training that gives a comprehensive overview of what a new attorney needs to know to practice juvenile law in Oregon!

- **Focus:** This CLE is intended to provide critical information to newer juvenile court practitioners. Comprehensive materials provided include: reference to statutes, case law, administrative rules, materials on child and adolescent development, the Indian Child Welfare Act and much, much more!
- **Dates:** October 17-18, 2005
- **Location:** Lane County Juvenile Justice Center on the John Serbu Youth Campus in Eugene, Oregon
- **Costs:** Contributions from many sponsors will help keep the cost low and accessible to all interested attorneys.
- **Registration:** Begins in late summer

28th National Law Conference in Los Angeles this August

The 28th National Law Conference of the National Association of Counsel for Children presents:

"State of the Art Advocacy for Children, Youth, and Families"

This event will be held August 25-28, 2005, at the historic Renaissance Hollywood Hotel in Los Angeles, CA.

This high quality annual conference features a variety of different speakers on four separate tracks, including: (1) Abuse and Neglect (2) Juvenile Justice /Delinquency (3) Family Law and (4) Policy Advocacy. It is designed for professionals in a range of fields including law, medicine, mental health, social work and education. The focus is on the practice of children's law through interdisciplinary training. Highlights of the event include: "Ethical Issues in the Practice of Juvenile Law", "Representing Lesbian, Gay, Bisexual, Transsexual and Questioning Youth in Both Dependency and Delinquency Case", a tour of the Edelman Children's Courthouse and the Children's Law Center and much, much more!

Juvenile and Family Law Conference in Pittsburgh

The National Council of Juvenile and Family Judges presents their 68th Annual Conference "**Sustaining the Gains.**"

This event will be held on July 17-20, 2005 in Pittsburgh, Pennsylvania.

Conference registration is open to all judges, prosecutors, defense counsel, administrators, planners, social workers, psychologists, mental health professionals, CASA workers and all other interested persons.

They offer five different workshop areas to choose from: Family Law, Family Violence, Delinquency, Dependency and an Alternate track.

Features of the Conference include: "Collaborating to Serve Mentally Ill Youth in the Juvenile Justice System", "Expedited Appeals in Child Abuse and Neglect Cases", and a keynote address by Shay Bilchik, President/CEO of the Child Welfare League of America.

Juvenile Law Bills Update

The following is an update of bills that appear to have a good chance to become law this session. To monitor committee schedules and bills, visit the Oregon Legislature website: www.leg.state.or.us.

SB 229-A Intervention Bill Cleanup

Passed Senate; Passed House Judiciary; Awaiting House floor vote

This bill requires that the court gives preference in dependency cases to the placement of a child to someone with whom the child has a caregiver relationship. The bill also clarifies the definition of "caregiver relationship."

SB 230-B Parents with Guardian Ad Litem

Passed Senate; Passed House Judiciary; Awaiting House floor vote

The ORS is unclear on the role of guardians ad litem (GAL) in juvenile dependency and termination of parental rights proceedings, including, when a GAL should be appointed, whether GAL's can demand a trial, whether they can direct parents counsel and whether they can relinquish parental rights on behalf of the parent. The bill addresses these and other issues in these difficult cases.

SB 231-B Juvenile Court Records

Passed Senate; Passed House Judiciary; Awaiting House floor vote

This bill provides that when materials are relied upon or considered by the juvenile court in a case that can result in an appeal, the court must make a list of the materials, and, in the event of an appeal, these materials must be made part of the record on appeal. This bill also provides that the transcript of the juvenile court proceeding is part of the record of the case, and establishes access and disclosure requirements for transcripts and other records.

SB 232 Mental Disease or Defect Defense

Passed Senate Judiciary; in Budget, Public Safety

Sub-Committee; Awaiting a Hearing

This bill will codify the defense of mental disease and defect in juvenile delinquency proceedings. The bill also establishes dispositional options for juveniles who successfully use this affirmative defense and have serious mental conditions or present a substantial danger to others. The bill establishes a juvenile panel of the Psychiatric Security Review Board.

SB 233-A OYA Planning

Passed Senate; Passed House; Governor Signed

This bill amends ORS 419C.486 and removes the requirement that OYA planning for youth focus on reunification of the family and bear a rational relationship to the jurisdictional findings. This provision was inappropriately carried over when the dependency and delinquency codes were split.

SB 234-A Putative Father

Passed Senate; Passed House; Governor Signed

Biological fathers who have demonstrated a commitment to the responsibilities of parenthood have certain constitutional rights regarding notice in juvenile court proceedings involving their children. Presently, the ORS does not reflect the constitutional standard, and there are inconsistencies throughout the statutes.

SB 921-B Private Adoption Notice Procedures

Passed Senate; Passed House

This bill requires a petitioner for adoption to serve summons and motion and order to show cause on certain parents who do not consent to adoption. It removes requirements that the court can serve citation to show cause on those parents and specifies contents of summons and methods of service. This bill further requires the court to appoint counsel for the non-consenting parent in certain circumstances and (continued on next page)

News Briefs (continued from page 3)

California moving towards rehabilitation

The May 27, 2005 edition of **The Christian Science Monitor** revealed that California's juvenile justice system would be changing its approach from punishment to rehabilitation. California looked to other states, including Missouri, Colorado and Washington, for guidance on implementing their own model. The drastic reform is aimed at preventing juvenile offenders from becoming adult offenders, as well.

Adult time for juvenile crime

The Coalition for Juvenile Justice released a study in March 2005, "Childhood on Trial: The Failure of Trying and Sentencing Youth in Adult Criminal Court" (<http://www.appa-net.org/about%20appa/CJJ-Report.pdf>).

Most youth charged as adults, according to the report, are first-time or nonviolent offenders. The study further examines the negative impact of charging juveniles as adults.

Juvenile Bill Update (Continued from page 10)

permits the court to take any action authorized by law if a parent fails to answer or appear at a hearing.

SB 1034-A Foster Youth Independent Transitioning

Passed Senate; Up for vote in the House

This bill seeks to ensure adequate future planning occurs for youth before they exit foster care. It also amends ORS 419B.337, which governs the placement of children into the legal custody of DHS for placement in foster care.

Report on Homeless Youth Submitted to Legislature

The Oregon Homeless and Runaway Youth Work Group submitted its report, "From Out of the Shadows: Shedding Light on Oregon's Homeless and Runaway Youth," to the Legislature in February.

Using data from the state's Runaway and Homeless Youth Management Information System, the report cited the most commonly reported issues facing homeless and runaway youth in Oregon. These included:

- Family Dynamics and Family Conflict, cited by 38% of males and 51% of females.
- School/Education issues, cited by 25% of males and 27% of females.
- Abuse and Neglect, cited by 16% of males and 22% of females.
- Alcohol/drug abuse, cited by 16% of males.
- Mental health issues, cited by 17% of females.

The report states: "A history of foster care has been found to be correlated with becoming homeless at an earlier age and remaining homeless for a longer period of time." It cites 1992 findings published by the National Association of Social Workers that 20% of youth who arrived at homeless shelters came directly from foster care and that more than 25% had been in foster care within the year prior to entry at homeless shelters.

The work group recommended that the state increase both support for families to increase their stability and also accountability for families who do not adequately care for or supervise their children.

The work group also found significant gaps in the following areas: prevention/early intervention, coordination of services and service availability.

A copy of the report can be obtained at: http://www.ohryc.org/downloads/final_report.pdf.



Summer Law Clerks Invade JRP!

JRP welcomes seven outstanding law clerks that will be helping around the office this summer.

Molly Allen, who clerked at JRP last summer, is going into her 3rd year at the University of Oregon School of Law. As a court-certified student, Molly represents clients at review hearings. She also is working on multiple projects including writing a guide for foster youth in OYA custody.

Kate Campbell joins us from Northeastern University School of Law and will be graduating in 2006. She is researching the consequences of multiple placements for foster youth and other child welfare topics.



We're on the web at: www.jrplaw.org



Left to right, Back Row: Trisha Gonzalez, Kate Campbell, Elizabeth Richards, Molly Allen, Amy Miller
Front Row: Mary Skjelset and Maite Uranga



Trisha Gonzalez just finished her first year at University of Oregon School of Law. Some of her projects include: working on a termination of parental rights handbook for attorneys and helping to draft a proposal to the legislature on child abuse reporting laws.

Amy Miller has clerked at JRP since her 1st year in law school at Lewis and Clark. She will be a 3L. In addition to taking calls on the Helpline, Amy is doing research on sibling rights and, as a court-certified student, is taking on clients.

Mary Skjelset, who also clerked during the school year, is going into her 2nd year at Lewis and Clark School of Law. She is helping to re-establish JRP's Detention Alternatives efforts, working on the Helpline and researching clemency applications.

Elizabeth Richards attends Lewis and Clark School of Law and will be a 2L. She is currently working on a project involving permanency for foster children.

Maite Uranga is going into her third year at Lewis and Clark School of Law. She takes on various research projects for attorneys in delinquency and dependency cases and, as a court-certified student, represents clients at review hearings.



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Juvenile Rights Project, Inc. (JRP) is a public interest law firm and advocacy organization promoting the rights and interests of our community's most vulnerable children – those involved in the child welfare and juvenile justice systems. JRP has a 29 year history of representing children individually in the Multnomah County Juvenile Court and through class action litigation. JRP also advocates for Oregon's children in the legislature and with public agencies, and offers training and technical assistance to families and to social service and legal professionals around the state who care for and work on behalf of some of Oregon's most disadvantaged children.