



## **Report on Improving Representation for Parents and Children in Juvenile Dependency Proceedings**

April 27, 2015

This report summarizes the history of Public Defense Services Commission (PDSC) efforts to improve representation in juvenile dependency cases. Although PDSC has made substantial improvements, challenges remain. Excessive caseloads for attorneys representing parents and children are the greatest remaining barrier to improved representation. The PDSC has several initiatives and policy option packages that address this barrier, all of which are summarized later in this report.

### History

Concerns about the quality of representation of parents and children in juvenile court have been ongoing for many years. In 2000, the Oregon State Bar's Indigent Defense Task Force III report found juvenile dependency representation severely lacking, noting that clients needing juvenile dependency representation faced "an unreasonable likelihood of receiving poor representation."<sup>1</sup>

In 2004, the Oregon Audits Division of the Secretary of State's office reported above average management risks for the Office of Public Defense Services (OPDS), noting "OPDS may not ensure that contract and private bar public defense attorneys provide adequate representation in juvenile cases."<sup>2</sup>

In 2005, a group of legislators<sup>3</sup> conducted a "sensitive case review" of a DHS child welfare case and identified a number of problems in the handling of that case. In an effort to remedy some of the concerns raised in the sensitive case review, seven

---

<sup>1</sup> The Report of OSB Indigent Defense Task Force III is accessible at:  
[https://www.osbar.org/\\_docs/idtf/idtf3.pdf](https://www.osbar.org/_docs/idtf/idtf3.pdf)

<sup>2</sup> See p3, Memorandum drafted by Ingrid Swenson, Executive Director of OPDS titled "Representation of Parents and Children in Juvenile Dependency Cases" which was presented to the PSDC on July 20, 2011. <http://www.oregon.gov/OPDS/docs/Agendas/07-28-11.pdf>

<sup>3</sup> Then-Senator Kate Brown, Sen. Jeff Kruse, Rep. Wayne Krieger, and Rep. Mike Schaufler.

legislative proposals were introduced in the 2007 legislature and six were signed into law.<sup>4</sup> Only one of the group's proposed measures, SB 411, remained in the Ways and Means committee at the end of the session.

SB 411 would have appropriated to PDSC \$23 million for the purpose of "improving legal representation for parents and children in dependency cases, including, but not limited to, improving training, support and other resources to support court-appointed counsel." The Senate Judiciary Committee adopted the \$23 million figure after hearing testimony regarding the need for improved representation and the potential benefits of such representation. The Committee determined that a substantial improvement could be recognized if caseloads were reduced by 20% and compensation increased by 25%. The cost of achieving the caseload reduction and increased compensation was \$23 million.<sup>5</sup>

In its 2009-2011 budget request, PDSC included a policy option package to increase funding for representation in juvenile cases by \$17 million. POP 100 provided supplemental funding for juvenile dependency representation and would have reduced caseloads for juvenile dependency attorneys. These funds were not approved.

In its 2011-2013 budget request, PDSC included an \$11 million policy option package to reduce juvenile dependency caseloads by 20% in order to address chronic and serious quality of representation issues. These funds were not approved.

In its 2013-2015 budget request, PDSC included a policy option package to improve juvenile dependency representation through reduced caseloads and improved representation. \$2.4 million of the \$3.8 million request was approved and, as a result, the Parent Child Representation Program, described later in this report, was developed and implemented. While this is valuable and successful start, it is only a fraction of what is needed to address the challenges.

### High caseloads compromise legal representation for parents and children

OPDS regularly evaluates juvenile providers through site reviews, where volunteer teams of attorneys and administrators review the work of its public defense providers. A summary of the findings made in evaluations completed between June 2004 and June 2008 was presented to PDSC by OPDS General Counsel in June of 2008. In his report, OPDS General Counsel referred to the differences between juvenile and criminal defense representation and stated "juvenile representation is consistently rated as

---

<sup>4</sup> Senate bills 408, 409, 410, 411, 412, 413, and 414.

<sup>5</sup> For a detailed discussion of SB 411, see the memorandum drafted by Ingrid Swenson, Executive Director of OPDS titled "Representation of Parents and Children in Juvenile Dependency Cases" which was presented to the PSDC on July 20, 2011. <http://www.oregon.gov/OPDS/docs/Agendas/07-28-11.pdf>

inferior to the representation that is being provided in criminal work.”<sup>6</sup> He identified several causes for this disparity: inadequate training for attorneys, inconsistent advocacy, and the manageability of high caseloads.

OPDS has made significant efforts to address inadequate training and inconsistent advocacy. Specific OPDS initiatives to improve the quality of juvenile dependency representation are addressed later in this report. However, excessive caseloads continue to serve as a major obstacle to providing competent legal representation.

In 2014, the Public Defense Services Commission noted:

Survey responses and anecdotal information collected through peer and service delivery reviews suggest that high caseloads remain a concern in most jurisdictions, and especially in dependency cases.<sup>7</sup>

The issue of exceptionally high caseloads for public defenders was once again raised by the Joint Interim Task Force on Juvenile Court Dependency Proceedings during their meetings in 2014. Task Force members discussed the issue of excessive caseloads, noting that in many counties, lawyers representing children and parents have well over 100 cases at any given time. And because there can be multiple children in each case, lawyers representing children can have many more clients than cases.<sup>8</sup>

The 2014 Task Force report articulates some of the effects of excessive caseloads:

...attorneys for parents and children struggle to engage their clients during the critical front end of dependency cases. In some counties, lawyers for parents and children are not present at the initial shelter care hearing which creates missed opportunities for advocacy and problem solving. High caseloads also contribute to scheduling delays. When lawyers have too many clients, they have limited time for client meetings and court appearances. Cases are often delayed by months when a contested hearing or trial needs to be set and the parent’s or child’s lawyer does not have available time.<sup>9</sup>

Every year, OPDS surveys judges, juvenile departments, Citizen Review Board managers, and prosecutors across the state regarding the quality of representation provided by its contractors. Survey respondents are asked about the overall quality of

---

<sup>6</sup> Public Defense Services Commission Minutes, June 12, 2008.  
<http://www.oregon.gov/OPDS/docs/Agendas/06-12-08.pdf>

<sup>7</sup> Public Defense Services Commission Retreat Agenda and Objectives, March 20, 2014.  
<http://www.oregon.gov/OPDS/docs/Agendas/03-20-14.pdf>

<sup>8</sup> Joint Interim Task Force on Juvenile Court Dependency Proceedings, Final Report, December 3, 2014.  
<https://olis.leg.state.or.us/liz/201311/Downloads/CommitteeMeetingDocument/41222> (DRAFT COPY)

<sup>9</sup> *Id.* at 7.

juvenile representation, whether the quality has changed in the past year, and about the caseload of practitioners. Over the past five years, more than 40% of judges who responded to the survey reported juvenile dependency caseloads are too large.<sup>10</sup>

### Quality improvement initiatives

Since assuming responsibility for trial level public defense services in 2003, OPDS has made a sustained effort to improve the work of its juvenile dependency contractors through a number of strategies. Several of these quality improvement initiatives are described below.

**Juvenile Law Training Academy:** The Juvenile Law Training Academy (JLTA) is an annual multidisciplinary conference for juvenile dependency practitioners. The concept of the JLTA began in 2003, when OPDS and representatives of a number of groups<sup>11</sup> concerned about the quality of juvenile dependency representation began meeting to discuss the creation of additional educational opportunities. This group became the “Juvenile Law Training Academy Workgroup.” Its principal focus over the years has been to outline a training curriculum for attorneys and to supplement existing training opportunities, but the conference is planned by and open to prosecutors, caseworkers, court representatives, CASA volunteers, and others involved in juvenile dependency work. The multidisciplinary approach makes this conference a valuable opportunity for everyone in the system to share ideas, challenge assumptions, better understand the roles of each party in the dependency process, and implement improvements at the local level. The 2015 JLTA will be the 10<sup>th</sup> annual training event spearheaded by OPDS and planned by the multidisciplinary workgroup. The conference typically draws over 150 attendees; the 2014 conference had over 200 participants.

**Continuing Legal Education Requirements:** Each year, there are a number of CLEs and conferences focused on juvenile representation. In light of the training opportunities available, the complexities of juvenile representation, and history of quality concerns, OPDS has included a contract requirement that juvenile providers obtain at least 16 hours of juvenile law CLE credits during the contract period. The list of CLE

---

<sup>10</sup> In 2011, 42% of judges reported caseloads to be significantly or somewhat too large. In 2012, this number is 41%, in 2013 43%, in 2014 43%, in 2015 43%.

<sup>11</sup> Members of the 2014 workgroup include: the Juvenile Court Improvement Program, the Office of Public Defense Services, the University of Oregon Law School, Youth, Rights & Justice, the Juvenile Law Section of the Oregon State Bar, the Oregon Criminal Defense Attorneys Association, the Department of Justice, the Department of Human Services, a district attorney representative, and CASA.

credits, by practitioner, is included in each contractor's proposal for providing representation services under contract.<sup>12</sup>

**Juvenile Appellate Section:** In 2007, the Legislature provided funding to create a Juvenile Appellate Section (JAS) at the Office of Public Defense Services. This unit is now functioning at a very high level and appreciation for the quality of its work and for its role in clarifying the law applicable to juvenile dependency cases has been expressed by the appellate courts, state's attorneys and members of the trial bar. Justice David Brewer, formerly Chief Judge of the Court of Appeals, was instrumental in bringing together the workgroup that identified the need for such a unit and advocated for its funding in the legislature. Juvenile section lawyers are frequent presenters at juvenile law CLEs, are available for consultation with trial lawyers, and are involved in multiple law and practice improvement efforts.

**Juvenile Law Resource Center:** In 2010, PDSC contracted with Youth Rights and Justice to create the Juvenile Law Resource Center to assist attorneys representing parents in juvenile dependency proceedings throughout Oregon. The JLRC provides written resources including case law updates, sample motions, practice guides and issue briefs, and provides case-specific consultation with attorneys representing parents.

**Performance Standards:** Performance standards for attorneys representing parents and children in dependency proceedings were approved by the Oregon State Bar (OSB) in 1996 and revised in 2006. These standards set out recommendations for action and considerations of counsel at each stage in a dependency proceeding.

In 2011, the OSB appointed a task force to update the performance standards and a substantial revision ensued. The Oregon State Bar Board of Governors adopted the revisions in 2014.<sup>13</sup> This substantial revision is a result of years of hard work by a handful of dedicated task force members. Key revisions include the development of distinct standards for lawyers representing parents and lawyers representing children, conformance with the Oregon Rules of Professional Conduct, and alignment of the standards with the ABA standards format and structure.

---

<sup>12</sup> In 2014, the Public Defense Services Commission expanded this CLE requirement to require 12 hours per calendar year of continuing legal education for all OPDS contract attorneys beginning January 1, 2016.

<sup>13</sup> The Performance Standards serve as best practice guides for attorneys representing parents and children in dependency cases. However, PDSC requires all public defense attorneys to certify that they have "**Have read, understood and agree to observe** applicable provisions of the current edition of the Oregon State Bar's Performance Standards for Counsel in Criminal, Delinquency, Dependency, Civil Commitment, and Post-Conviction Relief Cases." (emphasis added), PDSC Qualification Standards for Court-Appointed Counsel to Represent Financially Eligible Persons at State Expense, revised 12/21/13. <http://www.oregon.gov/OPDS/docs/CBS/AttorneyQualificationStandardsandCertification12-21-13.pdf>

**Quality Assurance:** In 2014, OPDS created a limited-duration Deputy General Counsel position for the purpose of evaluating and improving the quality of trial level juvenile court practice. The Deputy General Counsel position serves half-time as the attorney manager for the OPDS Parent Child Representation Program. In addition, the Deputy General Counsel coordinates juvenile law improvement efforts including: investigation and resolution of complaints regarding representation in dependency cases, legislative analysis, non-routine expense request review, special projects<sup>14</sup>, consultation with trial attorneys, coordination of juvenile law training, and participation on a variety of system improvement workgroups.<sup>15</sup>

### Parent Child Representation Program (PCRP)

PCRP is a pilot program modeled on the highly successful Washington State Parent Representation Program which, over the past 15 years, has been shown to dramatically increase the speed at which children achieve permanency. According to a 2011 study, the children served by the Washington PRP reach reunification one month sooner and other permanency outcomes one year sooner than those not served by the program.<sup>16</sup>

The focus of the Oregon PCRP is on providing high quality representation, including a caseload limit of 80 cases, additional oversight and training requirements, and multidisciplinary collaboration, which in turn promotes positive outcomes for parents and children. Repeated studies indicate that when parents are represented by attorneys with reasonable caseloads, the attorneys spend more time with parents and, as a result, both parents and children have better experiences with the child welfare system.<sup>17</sup> The PCRP began in Linn and Yamhill Counties in August 2014.<sup>18</sup>

Initial PCRP results are encouraging, and significant improvements have been achieved in the first seven months of the program. One significant, immediate gain was representation for parents and children at shelter hearings, the preliminary hearing in the case which occurs within 24 hours of removal. Prior to implementation of the PCRP, parents and children were without an advocate during the initial, often traumatic, portion of the case. This was, in large part, due to excessive caseloads. In Yamhill

---

<sup>14</sup> Current projects underway include: improving collaboration between trial and appellate counsel, research on successful improvement efforts underway in other jurisdictions across the country with corollary efforts to implement similar efforts in Oregon, when possible, and design and implementation of a client satisfaction survey.

<sup>15</sup> Deputy General Counsel is a Limited-Duration position. Policy Option Package 104 in the PDSC 2015-2017 Budget Request requests permanent funding for this position.

<sup>16</sup> Courtney, Hook & Orme, "Evaluation of the impact of enhanced parental legal representation on the timing of permanency outcomes," *Partners for Our Children* (Discussion Paper Vol. 1(1)) (2011).

<sup>17</sup> Laver, "Improving Representation for Parents in the Child-Welfare System," *American Bar Association Children's Rights Litigation* (October 2013).

<sup>18</sup> PDSC 2015-2017 Budget Request Policy Option Package 104 seeks funding to expand the PCRP to additional counties.

County, prior to the PCRCP, attorneys handled caseloads that included up to 100 juvenile cases, in addition to many other case types. As a result of high caseloads, attorneys were not consistently present at shelter hearings and initial client meetings were delayed. As a result of the PCRCP, parents and children in Yamhill and Linn counties are now consistently represented at initial shelter hearings by attorneys who have access to discovery and, in many cases, meet with their clients before the hearings. Cases are resolving more efficiently because attorneys are requesting fewer continuances due to scheduling conflicts. PCRCP attorneys are able to maintain regular and consistent client contact throughout the life of the case.<sup>19</sup> Case managers are working closely with attorneys on difficult cases to assess and address client needs, motivate parents, develop alternative safety and visitation plans, model appropriate behaviors, and identify solutions to expedite permanency for children. Case managers are actively engaged in 10-15% of cases. Attorneys report that they have time to identify, research, and adequately litigate legal issues. And, attorneys are more frequently conducting an independent investigation early in the case, prior to jurisdiction.

System partners have observed positive impacts as a result of the PCRCP. In the 2015 OPDS statewide survey, all judges in Yamhill County reported that the quality has improved in juvenile cases and all judges in Linn County indicate that the quality of dependency representation is excellent. According to Judge Murphy, presiding judge for Linn County, shelter hearings have become more effective and easier for parents to understand as a result of attorney participation in these critical proceedings.<sup>20</sup>

#### Collaboration with system partners

The Office of Public Defense Services is committed to working collaboratively with system partners to improve outcomes for parents and children in the juvenile dependency system. Although the collaborative process can, at times, pose strategic and logistical challenges, it also leads to better-informed decision making and more efficient resource allocation.

During the past year, OPDS has seized upon numerous opportunities for collaboration including participation on a number of task forces and workgroups. One example of multidisciplinary collaboration is the Work Group on Juvenile Court Dependency Proceedings, an 11 member group created during the 2013 legislative session to review the current dependency system and make recommendations for improvement. This task force included representatives from the Judicial Department, Citizen Review Board,

---

<sup>19</sup> The attorneys within the PCRCP program report monthly time and activities to OPDS. The PCRCP contract addendum requires attorneys dedicate approximately 1/3 of their time to meeting with clients, 1/3 of attorney time on case preparation, and 1/3 to court appearances and meetings.

<sup>20</sup> Joint Committee on Ways and Means Subcommittee on Public Safety, Testimony of Hon. Daniel R. Murphy, February 26, 2015.

CASA, Public Defense Services Commission, Department of Justice, Oregon District Attorneys Association, Oregon State Bar members, and the Department of Human Services. It met regularly throughout 2014, including: January 17, February 11, April 11, June 6, July 11, August 26, September 12, October 31, November 14, and December 10, and created what became House Bill 2358, which is discussed later in this memo.

In addition to external workgroups, OPDS has been hosting meetings with system partners. These meetings are an essential component of successful implementation of the Parent Child Representation Program. Concrete examples of OPDS-initiated efforts to work in concert with system partners through the PCRCP are listed below:

*PCRCP Partner Meetings and Agenda Items*

*Meetings to discuss status and strategy regarding the PCRCP with OJD, DHS, DOJ, and CASA*

- 3.11.14: Partner Kickoff and PCRCP Goals/Expectations
- 5.5.14: Pilot County Selection
- 6.24.14: Update on County Selection; Introduction of Attorney Manager
- 9.22.14: Case Manager RFP; Training Curriculum
- 1.9.15: Legislative Initiatives; Role of Case Managers
- 2.2.15: Discussion of HB 2358; PCRCP Status Update
- 4.15.15: Data collection and reporting; Legislative Update

*Outreach to County Partners*

*Local outreach for purposes of quality assurance and system improvement*

- 6.26.14: Meeting with Judge(s)
- 7.9.14: Meeting with Judge(s)
- 7.18.14: Local DHS Office
- 7.18.14: Local CASA Office
- 8.30.14: Meeting with Judge(s)
- 8.31.14: Meeting with District Attorney
- 9.11.14: Meeting with OYA
- 9.14.14: Meeting with Juvenile Department
- 9.17.14: Local DHS Office
- 9.24.14: Meeting with District Attorney
- 9.25.14: Local CASA Office
- 9.25.14: Potential Case Managers and Service Providers
- 11.4.14: Local DHS Office
- 11.4.14: Meeting with Juvenile Department
- 11.6.14: Local Service Provider

- 12.2.14: Local DHS Office
- 12.11.14: Meeting with Judge(s)
- 12.18.14: Local Permanency Roundtable
- 1.11.15: Meeting with Judge(s)
- 1.27.15: Local CRB Manager
- 2.3.15: Local CRB Manager and Service Provider
- 2.6.15: Meeting with Judge(s)
- 2.23.15: Juvenile Delinquency Court
- 3.24.15: Meeting with OYA and Juvenile Department
- 4.6.15: Juvenile Dependency Court & Local CASA Office

2015-17 Opportunities for caseload reduction and an investment in quality representation

PDSC's 2015-17 Budget Request includes a number of Policy Option Package (POP) requests that seek to ensure sustainable, effective and cost-efficient public defense services across the state and improve the quality of representation. These include:

**Policy Option Package 100 Consistent Rates & Mileage for Public Defense Contractors**

In 2013, the Legislature appropriated almost \$3 million to improve compensation for lawyers at non-profit public defender offices. Lawyers at consortium and law firms did not receive a commensurate rate increase.<sup>21</sup> Consequently, these lawyers continue to struggle with lower case rates. Additionally, providers in rural jurisdictions must cover mileage costs associated with client visits and court appearances in remote areas out of the case rate. POP 100 provides consistent case rates for consortium and law firm public defense providers, and mileage reimbursement for specific regions. Case rates, established through contract, are a "flat" rate for representation in a case. Absent exceptional circumstances, providers receive the same amount whether the case settles or goes to trial, and they must cover all of their expenses out of the rates, including office space, equipment and supplies, staff salaries (legal secretary, bookkeeper/office manager), insurance (health, premises liability, and professional liability), training costs, Oregon State Bar membership, professional membership dues, case management tools (electronic and other), etc. The current rate for consortium and law firm providers in the metro area is \$723 for each dependency case, while nonprofit public defenders receive \$822 per case. Providers can use only the portion of the rate remaining after payment of all other expenses for attorney compensation.

---

<sup>21</sup> Approximately 66% of public defense cases are handled by consortium groups, law firms, and hourly providers.

Package 100 provides essential funding by easing the financial pressure to enlarge caseloads. The POP would not offer any quantitative improvement in dependency cases. Nonetheless, it is critical for continued viability of the public defense system. The total request is approximately \$7.5 million.

### **Policy Option Package 101 Public Defense Contractor Parity**

POP 101 provides funding necessary to attract and retain qualified attorneys in public defense organizations throughout the state by reducing the disparity between public defense provider and prosecutor salaries, and by reducing caseloads that are above Oregon and National Standards. Approval of the amount requested will allow OPDS to increase case rates in those counties where there is significant inequality with prosecutor salaries and, where needed, allow PDSC to contract with additional attorneys in order to reduce caseloads. The total request is approximately \$21.5 million. This package would allow the PDSC and contract administrators to better control caseload sizes.

### **Policy Option Package 104 Juvenile Representation Improvement**

POP 104 would allow the agency to continue its effort to address longstanding and chronic quality of representation issues in dependency cases, and improve the quality of trial level representation. Excessive caseloads continue to be a significant cause of deficient representation in juvenile cases. The Oregon Criminal Defense Lawyers Association estimates caseloads to be 40% above national standards.<sup>22</sup> In August 2014, the Agency implemented the Parent Child Representation Program (PCRP), focused on providing high quality representation for parents and children in juvenile dependency and delinquency cases. The program, which began in Linn and Yamhill Counties, has 4 key components: (1) reduced caseload for lawyers, (2) additional training requirements, (3) greater oversight and (4) independent social work support.

If this policy package were funded, OPDS would build upon the existing Parent Child Representation Program by expanding to Clackamas and Multnomah Counties, or to other jurisdictions as recommended by the Legislature. Together, Clackamas and Multnomah counties represent 29% of Oregon's foster care population and 24% of the trial level juvenile cases in the state.<sup>23</sup> This POP also includes permanent funding for a PCRP attorney manager and data entry staff. These positions are critical for

---

<sup>22</sup> The Oregon Criminal Defense Lawyers Association Pay Parity Committee's Findings, Conclusions and Recommendations (as adopted by the OCDLA Board of Directors May 2, 2014). [http://www.ocdla.org/pdfs/pay\\_parity/Pay\\_Parity\\_Committee\\_Findings.pdf](http://www.ocdla.org/pdfs/pay_parity/Pay_Parity_Committee_Findings.pdf)

<sup>23</sup> Oregon Department of Human Services, 2012 Child Welfare Data Book, point in time data on 9/30/2012, (<http://www.oregon.gov/dhs/abuse/docs/2012%20Child%20Welfare%20Data%20Book.pdf>). Oregon Public Defense Services 2013 Juvenile Caseload Data.

continuation of the PCRCP and coordination of statewide improvement efforts. The total request is approximately \$5.6 million, with \$314,000 dedicated to program administration.

### Opportunities for collaborative improvement in dependency cases

HB 2358 was created through the interim Work Group on Juvenile Court Dependency Proceedings required by HB 3363 (Chapter 439 Or Laws 2013). The HB 2358 concept expands upon the PCRCP program by including funding for representation for DHS, as well as additional resources for courts. The Work Group report and bill are included with this report.

### Conclusion

The duties of PDSC, as described in ORS 151.216, require the Commission to “establish and maintain a public defense system that ensures the provision of public defense services in the most cost-efficient manner consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.” In order to fulfill this statutory directive, PSDC must develop and implement strategies to improve the quality of representation in juvenile cases. Historically, the practice of juvenile law across the state has been identified as substandard and, as a result, PDSC has made considerable efforts to improve the quality of representation in this area. Still, excessive caseloads hinder the provision of competent and effective legal representation for parents and children. Without additional funding for attorneys, high caseloads will continue to be an insurmountable obstacle.

For more information, contact:

Nancy Cozine  
Executive Director  
nancy.cozine@opds.state.or.us

Amy S. Miller  
Deputy General Counsel  
amy.miller@opds.state.or.us



**FINAL REPORT**  
*of the*  
**JOINT INTERIM TASK FORCE ON**  
**JUVENILE COURT DEPENDENCY PROCEEDINGS**  
*December 1, 2014*

**Staff:**

Bill Taylor, Judiciary Counsel  
Channa Newell, Judiciary Counsel  
Mike Reiley, Judiciary Office Coordinator

**Members:**

Non-Legislative Members:  
Hon. Patricia A. Sullivan, Chair  
Hon. Valeri L. Love  
Hon. Elizabeth Welch  
Nancy Cozine  
Lois Day  
Lori Fellows  
Lene Garrett  
Leola McKenzie  
Angela Sherbo  
Megan Shultz  
Joanne Southey

# TABLE OF CONTENTS

<b>Overview &amp; Process</b> .....	3
<b>Impediments to Timely Permanency</b> .....	5
<b>Current Initiatives to Address Impediments</b> .....	9
<b>Stakeholder Commitments for Improving the Juvenile Dependency System</b> .	11
<b>Legislative Concept</b> .....	12
<b>Conclusion</b> .....	133
<b>Appendix 1-Stakeholder Commitments for Improving the Juvenile Dependency System</b> .....	144
<b>Appendix 2- LC 2058, Foster Care Reduction Through Effective Representation in Juvenile Court Proceedings</b> .....	177

## OVERVIEW & PROCESS

The 2013 Oregon Legislative Assembly passed House Bill 3363 (Chapter 439, (2013 Laws)) establishing the 11-member Work Group on Juvenile Court Dependency Proceedings (Work Group). Modeled after similar county level multidisciplinary groups, the Work Group included:

- Two judges representing the Oregon Judicial Department (OJD)
- The Director of the OJD's Juvenile Court Programs representing the Citizen Review Board (CRB)
- Two CASA Directors representing CASA Volunteer Programs
- One Senior Judge representing the Public Defense Services Commission
- The Director of Oregon's Child Welfare Program, and
- Four attorneys with expertise in juvenile court dependency proceedings:
  - One representing the Department of Justice
  - One representing the Oregon District Attorneys Association
  - Two with expertise representing parents and children in juvenile court dependency proceedings.

The Legislative Assembly charged the Work Group with reviewing the juvenile dependency system. The Work Group was directed to report to the House and Senate Judiciary Committees no later than January 15, 2015.

The Work Group was charged with undertaking an analysis of current conditions and making recommendations for improvement. Specifically, the group was to identify impediments to:

- A. The timely resolution of jurisdictional petitions in juvenile court dependency proceedings.
- B. The assessment of the bases for dependency jurisdiction.
- C. The development and implementation of case plans for the reunification of families that include services and other assistance that are appropriate and accessible to parents.
- D. The assessment of the adequacy of case plans.
- E. The identification and implementation of specific, understandable and realistic conditions for the return of a child placed in substitute care to the physical custody of the child's parent.

- F. The timely development and implementation of permanent plans, including reunification of the family, that take into account the policies of the State of Oregon expressed in ORS 419B.090 and the concept of “reasonable time” as defined in ORS 419A.004.

Once the impediments were identified the Work Group was asked to:

1. Identify the specific actions each entity represented by the work group members can take under existing law and within current budgetary restraints to remove or mitigate the identified impediments, and develop a plan to put those actions into practice and to measure the effectiveness of those actions.
2. Identify changes to existing law that could be made to assist in removing or mitigating one or more of the identified impediments that would not require the investment and support of additional state funds.
3. Identify changes to existing law that would be essential to remove or mitigate one or more of the identified impediments that would require the investment and support of additional state funds.

At the national, state, and local level it is widely recognized that juvenile court, child welfare and community stakeholder systems are inter-related and that changes in one entity will affect the effectiveness of all related systems. There are a number of county level multidisciplinary groups that regularly convene to engage in a process that strives to improve permanency outcomes for children and families involved in dependency proceedings. For example:

1. Juvenile Court Improvement or Model Court Teams
2. Safe and Equitable Foster Care Reduction Teams
3. Zero to Three Teams
4. Child Welfare Advisory Committees
5. Family Law Advisory Committees
6. Citizen Review Panels

Although counties come together in unique ways, these groups are similar in that they meet regularly to identify changes they can make to improve court and systemic performance and outcomes for children and families and to evaluate their progress through the use of data. Participants enter into these processes knowing

that changes will affect the way each agency interacts with the rest of the juvenile court community.

The charge of the Work Group, and the inclusion of stakeholder representatives from all entities in the child welfare system, allowed the Work Group to identify and examine issues that are common across jurisdictions. The Work Group met seven times, heard from twenty-two witnesses, conducted research, and analyzed information. Because of time constraints and the broad charge to the group, the group focused on two of the three charges, charge number 1 and charge number 3.

First, consistent with charge number 1, the Work Group addressed changes each of the represented groups could commit to making within the current statutory scheme and within current budgetary restraints. That document, entitled “Stakeholder Commitments for Improving the Juvenile Dependency System”, is included as [Appendix 1](#).

Second, consistent with charge number 3, the group addressed improvements that would require additional resources. General agreement was reached in that improvement for children and families involved in the juvenile system would come largely from improved representation of all parties (necessitating lower caseloads, greater oversight and additional training for attorneys and CASAs) and a judiciary with sufficient time and resources to give these cases the attention and priority they deserve. The Work Group’s proposal is memorialized in a legislative counsel draft of a bill requiring funding for the implementation of a pilot program to reduce the length of time children spend in foster care through effective representation. In addition to appropriating funds to improve representation of the parties, the bill appropriates funds to the judicial department to add judicial and staff resources. The draft, LC 2058, is included as [Appendix 2](#).

## **IMPEDIMENTS TO TIMELY PERMANENCY**

Temporary, short-term foster care is an essential element of a comprehensive child welfare program. There will always be a need for a temporary means of ensuring children's safety when working with families to address issues that are compromising their children's safety.

The effectiveness of foster care diminishes over time. The longer children remain in foster care, the less effective foster care is in meeting children's needs. In order to maximize children's success in safely navigating childhood, we must identify the

strategies with the greatest promise of reducing the length of time children spend in a foster care setting and supporting safe environments that promote safety and permanency.

An initial task of the Work Group was to identify obstacles to timely permanency for children within the juvenile dependency system. Work Group members pinpointed many challenges to achieving permanency. Some of these challenges are broad systemic issues which may be beyond the ability of a single state to rectify and are beyond the charge of this group. For example, significant permanency delays occur due to delays in obtaining home studies when an out of state placement is sought.<sup>1</sup>

But other obstacles are less expansive and more easily addressed through process changes, additional resources, or both. These impediments fall into three broad categories: lack or delay of services for parents and children, lack of system resources, and lack of adequate education and training.

### **Lack or Delay of Services for Parents and Children**

A consistent barrier to permanency is the unavailability (or delayed availability) of services which serve as a predicate to permanency. Work Group members noted that service quality and availability varies greatly by geographical location and that the lack of adequate services is pervasive in rural areas of our state. Mothers and fathers are often required to engage in mental health and/or drug and alcohol treatment programs. In the past several years, where austerity has severely limited treatment resources, parents have endured lengthy wait times and limited availability of services. Limited availability of services for children also contributes to delays.

When children are in foster care, visitation with parents is essential to promoting timely reunification and, in addition, regular visitation is

---

<sup>1</sup> The Interstate Compact on the Placement of Children (ICPC), originally drafted in 1960 and enacted by all States, established procedures for ensuring the safety and stability of placements across State lines for children in foster care or adoption. The home study process, a preplacement assessment of the safety and stability of a prospective foster or adoptive family, is often seen as a major barrier to timely placement. Sankaran, *Foster Kids in Limbo: The Effects of the Interstate Compact on the Placement of Children on the Permanency of Children in Foster Care, A Report to the Annie E. Casey Foundation*, University of Michigan Law School (2012).

correlated with an increased likelihood of lasting reunification.<sup>2</sup> However, in many cases, both the quality and quantity of visits between parents and children is less than ideal. Parents and children consistently receive limited visitation time in an environment akin to a child welfare office. In addition, transportation challenges, particularly in rural areas of the state, contribute significantly to limited visitation.

### **Lack of System Resources**

A consensus among Work Group members was that a lack of resources within the systems represented by the group's members has a substantial impact on timely permanency. Group members identified many barriers which result from underfunded public defense, judicial, and child welfare systems.

Public defenders strain to meet the demands of challenging clients under an often oppressive caseload.<sup>3</sup> As a result, attorneys for parents and children struggle to engage their clients during the critical front end of dependency cases. In some counties, lawyers for parents and children are not present at the initial shelter care hearing which creates missed opportunities for advocacy and problem solving. High caseloads also contribute to scheduling delays. When lawyers have too many clients, they have limited time for client meetings and court appearances. Cases are often delayed by months when a contested hearing or trial needs to be set and the parent's or child's lawyer does not have available time.

Limited judicial officer availability also causes delay in timely case resolution. The number of judicial officers available varies significantly from county to county. In addition, due to docketing limitations, cases awaiting trial can be delayed for months. In many counties, one judge is assigned to the family's case. The effectiveness of a consistent judicial officer is well-established and the one-judge-one-family model is a best practice. Additional judicial officers available to hear juvenile dependency matters would ease the scheduling challenges which lead to delays.

---

<sup>2</sup> Weintraub, *Information Packet Parent-Child Visiting*, National Resource Center for Family-Centered Practice and Permanency Planning at the Hunter College School of Social Work (April 2008).

<sup>3</sup> According to Work Group members, in most counties, lawyers representing children and parents have well over 100 cases at any given time. Because there can be multiple children in each case, for lawyers representing children, there can be many more clients than cases.

Overstretched child welfare staff has a direct impact on permanency timeliness. There are a number of activities which must occur for a child to move into permanency including supporting effective visitation, evaluation of relatives for establishing relationships, and supporting the child in the placement. Due to staffing levels which are at about two-thirds of need<sup>4</sup>, these tasks are not completed as rapidly as they could be, thus resulting in delayed permanency.

The lack of consistent legal representation of DHS Child Welfare in court is another contributing factor to permanency delays. DHS caseworkers often appear in court without legal counsel. There is inconsistency among the counties on the role of the district attorney's office in these cases and in terms of the type and frequency of appearances by an assistant attorney general. Issues occur when cases are delayed due to DHS caseworkers being unable to adequately address their legal position or present their case.

### **Lack of Adequate Education and Training**

As a result of insufficient education and training, the professionals working to serve parents and children within the juvenile dependency system inadvertently cause harmful delays. For example, the workgroup identified educational and procedural deficits which cause delays at the beginning of a case: attorneys for parents, children and the state have an inconsistent understanding of the bases for juvenile court jurisdiction and, at times child welfare staff struggle to provide timely discovery to the parties in the case. In addition, there are varying practices within DHS child welfare regarding developing service plans and action agreements for parents.

Another contributing factor is philosophical differences regarding the role of foster care and the value of permanency. Some judges, CASAs, attorneys, and DHS staff believe remaining in foster care to take advantage of program access is of higher importance than moving to a higher legal level of permanency. Others disagree. Further education and discussion among system participants is needed in the hopes of reaching a greater consensus on this and other philosophical issues.

---

<sup>4</sup> Kelley-Siel and Waybrant, *DHS Child Welfare Programs Phase 1 Budget Presentation*, Oregon Department of Human Services, <http://www.oregon.gov/dhs/aboutdhs/dhsbudget/budget20132015/cw-phase1presentation.pdf> (March 18 and 19, 2013).

## CURRENT INITIATIVES TO ADDRESS IMPEDIMENTS

Several projects and programs are already underway to address barriers to timely permanency. But most are agency or organization-specific and targeted toward a particular outcome. A comprehensive, multi-system initiative, driven and managed in a collaborative fashion, has yet to be implemented.

### **Parent Child Representation Program (Office of Public Defense Services)**

PCRCP is a pilot program modeled on the highly successful Washington State Parent Representation Program which, over the past 14 years, has been shown to dramatically increase the speed at which children achieve permanency. According to a 2011 study, the PRP resulted in an 11 percent higher reunification rate and an over 80 percent increase in the adoption or guardianship rate.<sup>5</sup> The focus of the PCRCP is on providing high quality representation, including caseload limits, additional oversight and training requirements, and multidisciplinary collaboration, which in turn promotes positive outcomes for parents and children. Repeated studies indicate that when parents are represented by attorneys with reasonable caseloads, the attorneys spend more time with parents and, as a result, both parents and children have better experiences with the child welfare system.<sup>6</sup>

### **Child Welfare Program (Department of Human Services Child Welfare)**

There are several efforts underway in child welfare that will positively impact permanency for children:

1. Comprehensive retraining of line supervisors in the elements and application of the Oregon Safety Model, increasing the consistency of the practice of the Model including Conditions for Return.
2. Hiring of additional casework staff allocated by the 2013-15 legislature bringing staffing to approximately 85% of need as identified by the child welfare workload model.

---

<sup>5</sup> Courtney, Hook & Orme, "Evaluation of the impact of enhanced parental legal representation on the timing of permanency outcomes," *Partners for Our Children* (Discussion Paper Vol. 1(1)) (2011).

<sup>6</sup> Laver, "Improving Representation for Parents in the Child-Welfare System," *American Bar Association Children's Rights Litigation* (October 2013).

3. Implementation of Permanency Roundtables, a comprehensive staffing designed to support workers efforts to identify and achieve a more timely permanent plan for children in foster care two years or longer.
4. Continued collaboration with Casey Family Programs focused on the equitable reduction of the number of children experiencing foster care with an emphasis on the use of metrics to drive interventions to specific outcomes.
5. Implementation of Strengthening, Preserving and Reunifying Families Programs (SPRF): Statewide implementation of SPRF programs, strengthening the service array in every county in Oregon to be more responsive to the challenges facing families in keeping their children safe at home.

### **Juvenile Court Workload Study (Oregon Judicial Department)**

The Oregon Judicial Department is contracting with the National Center for State Courts (NCSC) to conduct workload assessments of juvenile court judges and staff. Juvenile court practice has grown increasingly more complex over time. Since the Child Abuse Prevention and Treatment Act (CAPTA) was passed in 1974, there have been over 30 pieces of federal legislation impacting juvenile court work. This workload study is an important first step to ensuring that our trial courts have adequate time on the docket and sufficient staff resources so judges can do the work well.

This workload study, which will be the first judicial workload study in Oregon since 2000, will measure the work that juvenile courts are able to do with the resources they currently have available. Additionally the study will include discussion and review of best practices and an assessment of the time and resources necessary to reach a baseline level of quality for juvenile dependency hearings. The study will be completed by the end of July, 2015.

### **Statewide Survey of Visitation Practices for Children in Foster Care (Citizen Review Board (CRB))**

The Lane County CRB CAPTA Panel completed a comprehensive DHS visitation policy review and a survey of over 200 Lane County cases. They found that the policy is very sound yet its implementation is uneven. Cases were assessed based on the initial safety threat and very few had updated safety assessments and step downs in visitation. As we all know, adequate, quality visitation is one of the indicators of successful reunification. The

CRB has taken on the task of exploring the effectiveness of visitation policy implementation across the state as the CRB believe this can really go a long way to speed reunification, a goal we all seek. CRB staff will compile the results and provide DHS with a written briefing detailing the outcomes of the inquiry.

## **STAKEHOLDER COMMITMENTS FOR IMPROVING THE JUVENILE DEPENDENCY SYSTEM**

After reviewing the substantial number of obstacles to timely permanency for children, the Work Group reached consensus that, although many contributing factors are broad systemic issues, substantial gains could be made by focusing on improving legal representation for the parties and refining the court process.

Consistent with the Work Group's first charge, to address changes which could be made within the current statutory scheme and within current budgetary restraints, each represented Work Group entity developed commitments to improve the juvenile dependency system. These commitments range in scope and scale; however, each obligation addresses and attempts to reduce or remove an obstacle to timely permanency for children.

The stakeholder commitments, as documented in [Appendix 1](#), fit into three categories: process improvement, education and training, and oversight and standards. Within each category, the represented entity's commitment(s) to avoiding unnecessary delays are listed individually. Process improvements are primarily focused on collaboration and efficiency initiatives which will alleviate system bottlenecks. Education and training commitments will ensure practitioners have the tools needed to navigate the complex juvenile dependency system with an eye toward ensuring children obtain the permanency and stability that is desperately needed. Oversight and standards serve to ensure consistency of practice.

The Work Group members expressed a continued ongoing commitment to the county level collaborative efforts discussed earlier. Work Group members will provide encouragement and support for their county level representatives to implement the Stakeholder Commitments for Improving the Juvenile Dependency

System at the local level. The OJD and DHS are committed to the ongoing sharing of county level data related to timeliness of court proceedings, timeliness of permanency, reduction of APPLAs, and exits from foster care, and to ensuring that discussions of this data and current improvement efforts occur in a setting that includes all stakeholders. This commitment reflects the group's conclusion that continued improvement requires collaborative local level efforts. The practice changes contemplated within the Stakeholder Commitments for Improving the Juvenile Dependency System, combined with the current initiatives to address impediments to permanency, will help Oregon achieve goals of timely permanency, safety, and well-being for our foster children.

DHS recently launched their public child welfare data reporting website. ([https://rom.socwel.ku.edu/oregon\\_Public/MyHome.aspx](https://rom.socwel.ku.edu/oregon_Public/MyHome.aspx)) This website has a list of reports that provides the trends and county comparisons on various child welfare outcome reports. This on-line reporting tool provides local multidisciplinary teams with data to assess their progress along with a better understanding of local level successes and challenges.

## LEGISLATIVE CONCEPT

The third Work Group charge required the group to identify changes to existing law which would reduce impediments to timely permanency and require the investment and support of additional state funds. Because the Work Group uniformly agrees that improving outcomes for children and families in the dependency system is inexorably linked with high-quality legal representation and an adequately-resourced judiciary, the group proposes a pilot program to create an environment wherein the court and attorneys are able to function optimally to ensure children do not spend additional time in foster care due to systemic barriers to permanency.

The pilot program proposal, memorialized in LC 2058 and included as [Appendix 2](#), would provide for comprehensive, multi-system reform and collaboration which, as a result, would reduce the amount of time children spend in foster care and accelerate permanency for children.

## CONCLUSION

Over the past year, the Work Group on Juvenile Court Dependency Proceedings struggled with the enormous challenge of identifying barriers to permanency and determining which barriers could be alleviated through practice improvement. However, upon further examination, it became clear that each participating Work Group entity could make some progress simply by committing to enhance and improve their role within the dependency system. And, in order to effect more substantial improvement for children and families involved in the juvenile system, improved legal representation for all parties and a judiciary with sufficient time and resources is needed to give parents and children the attention and priority that they deserve.

# Appendix 1-Stakeholder Commitments for Improving the Juvenile Dependency System

## PROCESS IMPROVEMENT

### **Courts**

- Schedule shelter hearings at a time that allows attorneys to be appointed and appear at the shelter hearing.
- Review adequacy of visitation plan - for parent & child and child & sibling(s) if not placed together.
- Address DHS referral of parents to pre-adjudication services with attorney approval.
- In counties where multiple judges handle juvenile cases, establish guidelines for judges to retain cases once they hear them.
- Coordinate and set hearings so there is a review every 90 days by either the court or CRB.

### **Citizen Review Board**

- Review adequacy of visitation plan - for parent & child and child & sibling(s) if not placed together.
- Emphasize concurrent planning.
- Recommend expedited permanency hearings only when appropriate.

### **Attorneys for Children and Parents**

- Practice in accordance with the Oregon State Bar standards of representation for parents and children in dependency proceedings.
- Work with local courts and juvenile justice stakeholders to create specialized juvenile dockets and implement systems that eliminate delays.

### **State's Attorneys**

- Develop and be familiar with standards for proper legal service on parents.
- Ensure effective legal service in each case.
- Work with local courts and juvenile justice stakeholders to create specialized juvenile dockets and implement systems that eliminate delays.

### **Department of Human Services**

- Clearly state the Conditions for Return (the department's expectations for changes in behavior that parent(s) need make to resolve the safety issues challenging the family).
- Monitor and periodically update the visitation plan for parents as well as siblings.
- Provide timely notification to the court of a requested change in case plan and a requested hearing if required.
- Provide discovery to parties as soon as practicable following the filing of a petition and continue to provide discovery on a predictable and functional schedule with consideration of the import of the documents to the case.

### **Court Appointed Special Advocates (CASA)**

- Monitor status of relative search, CANS assessment, CRB recommendations and Protective Capacity Assessment to insure timely resolution of case.
- Ensure youth 14+ have been referred to ILP services, participated in permanency roundtables or family finding processes.
- Document home visits, school visits, client contact and observations of parent and/or sibling visits.
- Ensure DHS case plan/permanency plan has been identified and is being implemented.
- Emphasize appropriate visitation for family preservation.

## **OVERSIGHT AND STANDARDS**

### **Courts & CRB**

- Courts and CRB to be trained on effecting compliance by all attorneys with standards and expectations.

### **Attorneys for Children and Parents**

- Work with attorneys to ensure they are aware of updated standards of representation in juvenile dependency cases for attorneys representing parents and children, which were adopted by the Board of Governors in June 2014.
- Adoption of maximum caseload standards.
- OPDS oversight on performance by practitioners through contracting, complaint resolution and reviews of non-routine expense requests.

### **State's Attorneys**

- DOJ provides oversight of AAGs representing DHS in dependency cases through caseload reviews, complaint resolution and manager follow-up with model court leaders. DA offices to provide oversight of DDA handling juvenile work with regular meetings, complaint resolution and discussions with model court leaders.
- Development and adoption of performance and practice standards for attorneys representing the state and DHS.
- Adoption of maximum caseload standards for DDAs and AAGs.

# **EDUCATION AND TRAINING**

## **Courts & CRB**

- Ensure all new judges get Basic Juvenile Court 101 training at OJD New Judge School.
- JCIP continue to sponsor and support judicial officer and multidisciplinary educational programs.

## **Attorneys for Children and Parents**

- Continue to develop multi-disciplinary collaborative training and education including all parties and system participants such as the Juvenile Law Training Academy.
- Ensure the availability of regular and ongoing training related to juvenile law practice.
- Develop webinars and other remote-access training for practitioners in rural or remote areas.
- Regularly disseminate information to practitioners regarding available training related to juvenile law practice.

## **State's Attorneys**

- Ensure regular and on-going training specific to juvenile law practice.
- DA offices to provide in-house training for attorneys handling juvenile dependency work. Regional exchanges should be considered for smaller communities.
- ODAA and DOJ attorney training on legal sufficiency for dependency petitions and need for rational relationship between allegations of parental conduct and services ordered.
- Attendance (in person or by webcast) at CLEs relevant to juvenile law practice including the annual Juvenile Law Training Academy CLE.

## **Department of Human Services**

- Training in court processes and how to present as a witness
- Diligent relative search and absent parent search.

## **Court Appointed Special Advocates (CASA)**

- Consistent availability of relevant quality statewide training.
- Collaborative training offered with multi-party participation.
- Additional training focus on:
  - Effective use of party status
  - Conditions of return
  - Jurisdictional basis vs. required services
  - Reasonable time for the child.

**Appendix 2- LC 2058, Foster Care Reduction Through Effective Representation in Juvenile Court Proceedings**

LC 2058  
2015 Regular Session  
10/14/14 (BLS/ps)

**D R A F T**

SUMMARY

Directs Judicial Department, office of public defense services, Department of Human Services and Department of Justice to collaborate to establish pilot programs in four to six Oregon counties to reduce foster care use through effective representation in juvenile dependency proceedings.

Appropriates moneys to Judicial Department, Public Defense Services Commission, Department of Human Services and Housing and Community Services Department for purpose of implementing pilot programs.

Sunsets pilot programs on June 30, 2021.

Declares emergency, effective on passage.

**A BILL FOR AN ACT**

1

2 Relating to pilot programs to improve juvenile dependency system; and de-  
3 claring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. The Legislative Assembly finds that:**

6 **(1) Every child has the right to be raised in a permanent, safe and**  
7 **stable home.**

8 **(2) Foster care is a temporary service that can be both necessary**  
9 **and effective. However, the effectiveness of foster care declines sub-**  
10 **stantially as the length of stay in foster care increases.**

11 **(3) Evidence-based research shows that high-quality legal represen-**  
12 **tation improves outcomes for children and families, in that children**  
13 **are more likely to remain safely in the home, spend less time in foster**  
14 **care and achieve permanency more quickly.**

15 **(4) Reducing the use of foster care is both cost-effective and in the**  
16 **best interests of Oregon's children.**

NOTE: Matter in boldfaced type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in boldfaced type.

1 (5) The Department of Human Services requires additional legal  
2 resources to fully comply with Oregon's juvenile dependency laws.

3 (6) The Judicial Department requires additional judges and referees  
4 to be trained for and dedicated to juvenile court.

5 (7) The office of public defense services requires additional re-  
6 sources in order to reduce attorney caseloads and provide adequate  
7 high-quality legal representation to parents and children.

8 (8) The implementation of pilot programs as set forth in section 2  
9 of this 2015 Act will inform the Legislative Assembly and stakeholders  
10 of the prospect for success of implementation of similar programs  
11 throughout this state.

12 SECTION 2. (1) The Judicial Department, the office of public de-  
13 fense services established pursuant to ORS 151.216, the Department of  
14 Human Services and the Department of Justice shall collaborate to  
15 create and implement pilot programs to reduce foster care through  
16 effective representation in juvenile dependency proceedings in a mini-  
17 mum of four and a maximum of six counties in this state, including  
18 Linn and Yamhill Counties.

19 (2) The purposes of the pilot programs implemented under sub-  
20 section (1) of this section include, but are not limited to:

21 (a) Improving the quality of legal representation for parents and  
22 children by reducing attorney caseloads, providing adequate compen-  
23 sation, ensuring additional oversight and providing multidisciplinary  
24 support and training;

25 (b) Increasing resources to enable the State of Oregon and the De-  
26 partment of Human Services to be adequately represented in juvenile  
27 dependency proceedings;

28 (c) Increasing resources to the Judicial Department for additional  
29 judges and referees in order to adjudicate dependency cases more ex-  
30 peditiously;

31 (d) Increasing resources to CASA Volunteer Programs as defined in

1 ORS 458.580 to provide court appointed special advocates an opportu-  
2 nity for legal consultation when needed; and

3 (e) Measuring outcomes to determine if the use of foster care has  
4 declined as a result of implementation of the pilot programs.

5 (3) The pilot programs shall be implemented as follows:

6 (a) The office of public defense services shall contract with attor-  
7 neys to represent children and parents in the counties where the pilot  
8 programs are implemented and shall adopt standards and training for  
9 the attorneys.

10 (b) The Department of Justice shall employ attorneys to represent  
11 the Department of Human Services in juvenile dependency proceedings  
12 and shall establish standards and training for attorneys that provide  
13 the representation.

14 (c) The office of public defense services, in consultation with and  
15 with the support of the Judicial Department, the Department of Hu-  
16 man Services and the Department of Justice, shall select and contract  
17 with an independent evaluator to evaluate each pilot program.

18 (4) The Judicial Department, the office of public defense services,  
19 the Department of Human Services and the Department of Justice  
20 shall collaborate to submit a report on the status of the pilot programs  
21 to the interim or regular committees of the Legislative Assembly with  
22 subject matter jurisdiction over the judiciary on or before the date of  
23 the convening of each odd-numbered year regular session of the Leg-  
24 islative Assembly as specified in ORS 171.010.

25 (5) The Judicial Department, the office of public defense services,  
26 the Department of Human Services and the Department of Justice  
27 shall collaborate to adopt rules to carry out the provisions of this  
28 section.

29 SECTION 3. In addition to and not in lieu of any other appropri-  
30 ation, there is appropriated to the Judicial Department, for the  
31 biennium beginning July 1, 2015, out of the General Fund, the amount

1 of \$\_\_\_\_\_ for the purposes of carrying out the provisions of section 2  
2 of this 2015 Act.

3 SECTION 4. In addition to and not in lieu of any other appropri-  
4 ation, there is appropriated to the Public Defense Services Commis-  
5 sion, for the biennium beginning July 1, 2015, out of the General Fund,  
6 the amount of \$\_\_\_\_\_ for the purposes of carrying out the provisions  
7 of section 2 of this 2015 Act.

8 SECTION 5. In addition to and not in lieu of any other appropri-  
9 ation, there is appropriated to the Department of Human Services, for  
10 the biennium beginning July 1, 2015, out of the General Fund, the  
11 amount of \$\_\_\_\_\_ for the purposes of carrying out the provisions of  
12 section 2 of this 2015 Act.

13 SECTION 6. In addition to and not in lieu of any other appropri-  
14 ation, there is appropriated to the Housing and Community Services  
15 Department, for the biennium beginning July 1, 2015, out of the Gen-  
16 eral Fund, the amount of \$\_\_\_\_\_ to be deposited into the Court Ap-  
17 pointed Special Advocate Fund created in ORS 458.584 for the purposes  
18 of carrying out the provisions of section 2 (2)(d) of this 2015 Act.

19 SECTION 7. Sections 1 and 2 of this 2015 Act are repealed on June  
20 30, 2021.

21 SECTION 8. This 2015 Act being necessary for the immediate pres-  
22 ervation of the public peace, health and safety, an emergency is de-  
23 clared to exist, and this 2015 Act takes effect on its passage.

24

# House Bill 2358

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on Judiciary)

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs Judicial Department, Public Defense Services Commission, Department of Human Services and Department of Justice to collaborate to establish pilot programs in four to six Oregon counties to reduce foster care use through effective representation in juvenile dependency proceedings.

Appropriates moneys to Judicial Department, Public Defense Services Commission, Department of Human Services and Housing and Community Services Department for purpose of implementing pilot programs.

Sunsets pilot programs on June 30, 2021.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

1 Relating to pilot programs to improve juvenile dependency system; and declaring an emergency.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1. The Legislative Assembly finds that:**

4 **(1) Every child has the right to be raised in a permanent, safe and stable home.**

5 **(2) Foster care is a temporary service that can be both necessary and effective. However,**  
6 **the effectiveness of foster care declines substantially as the length of stay in foster care in-**  
7 **creases.**

8 **(3) Evidence-based research shows that high-quality legal representation improves out-**  
9 **comes for children and families, in that children are more likely to remain safely in the**  
10 **home, spend less time in foster care and achieve permanency more quickly.**

11 **(4) Safely reducing the use of foster care is both cost-effective and in the best interests**  
12 **of Oregon's children.**

13 **(5) The Department of Human Services requires additional legal resources to fully comply**  
14 **with Oregon's juvenile dependency laws.**

15 **(6) The Judicial Department requires additional judicial resources and staff to be trained**  
16 **for and dedicated to juvenile court.**

17 **(7) The Public Defense Services Commission requires additional resources in order to**  
18 **reduce attorney caseloads and provide adequate high-quality legal representation to parents**  
19 **and children.**

20 **(8) The implementation of pilot programs as set forth in section 2 of this 2015 Act will**  
21 **inform the Legislative Assembly and stakeholders of the prospect for success of implemen-**  
22 **tation of similar programs throughout this state.**

23 **SECTION 2. (1) The Judicial Department, the Public Defense Services Commission, the**  
24 **Department of Human Services and the Department of Justice shall collaborate to create and**  
25 **implement pilot programs to reduce foster care through effective representation in juvenile**  
26 **dependency proceedings in a minimum of four and a maximum of six counties in this state,**  
27

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 including Linn and Yamhill Counties.

2 (2) The purposes of the pilot programs implemented under subsection (1) of this section  
 3 include, but are not limited to:

4 (a) Improving the quality of legal representation for parents and children by reducing  
 5 attorney caseloads, providing adequate compensation, ensuring additional oversight and pro-  
 6 viding multidisciplinary support and training;

7 (b) Increasing resources to enable the State of Oregon and the Department of Human  
 8 Services to be adequately represented in juvenile dependency proceedings;

9 (c) Increasing judicial resources and staff in the Judicial Department in order to adjudi-  
 10 cate dependency cases more expeditiously;

11 (d) Increasing resources to CASA Volunteer Programs as defined in ORS 458.580 to pro-  
 12 vide court appointed special advocates an opportunity for legal consultation when needed;  
 13 and

14 (e) Measuring outcomes to determine if the use of foster care has declined as a result  
 15 of implementation of the pilot programs.

16 (3) The pilot programs shall be implemented as follows:

17 (a) The Public Defense Services Commission shall contract with attorneys to represent  
 18 children and parents in the counties where the pilot programs are implemented and shall  
 19 adopt standards and training for the attorneys.

20 (b) The Department of Justice shall employ attorneys to represent the Department of  
 21 Human Services in juvenile dependency proceedings and shall establish standards and train-  
 22 ing for attorneys that provide the representation.

23 (c) The Public Defense Services Commission, in consultation with and with the support  
 24 of the Judicial Department, the Department of Human Services and the Department of Jus-  
 25 tice, shall select and contract with an independent evaluator to evaluate each pilot program.

26 (4) The Judicial Department, the Public Defense Services Commission, the Department  
 27 of Human Services and the Department of Justice shall collaborate to submit a report on the  
 28 status of the pilot programs to the interim or regular committees of the Legislative Assem-  
 29 bly with subject matter jurisdiction over the judiciary on or before the date of the convening  
 30 of each odd-numbered year regular session of the Legislative Assembly as specified in ORS  
 31 171.010.

32 (5) The Judicial Department, the Public Defense Services Commission, the Department  
 33 of Human Services and the Department of Justice shall collaborate to adopt rules to carry  
 34 out the provisions of this section.

35 **SECTION 3.** In addition to and not in lieu of any other appropriation, there is appropri-  
 36 ated to the Judicial Department, for the biennium beginning July 1, 2015, out of the General  
 37 Fund, the amount of \$\_\_\_\_\_ for the purposes of carrying out the provisions of section 2  
 38 of this 2015 Act.

39 **SECTION 4.** In addition to and not in lieu of any other appropriation, there is appropri-  
 40 ated to the Public Defense Services Commission, for the biennium beginning July 1, 2015, out  
 41 of the General Fund, the amount of \$\_\_\_\_\_ for the purposes of carrying out the provisions  
 42 of section 2 of this 2015 Act.

43 **SECTION 5.** In addition to and not in lieu of any other appropriation, there is appropri-  
 44 ated to the Department of Human Services, for the biennium beginning July 1, 2015, out of  
 45 the General Fund, the amount of \$\_\_\_\_\_ for the purposes of carrying out the provisions

1 of section 2 of this 2015 Act.

2 **SECTION 6.** In addition to and not in lieu of any other appropriation, there is appropri-  
3 ated to the Housing and Community Services Department, for the biennium beginning July  
4 1, 2015, out of the General Fund, the amount of \$\_\_\_\_\_ to be deposited into the Court Ap-  
5 pointed Special Advocate Fund created in ORS 458.584 for the purposes of carrying out the  
6 provisions of section 2 (2)(d) of this 2015 Act.

7 **SECTION 7.** Sections 1 and 2 of this 2015 Act are repealed on June 30, 2021.

8 **SECTION 8.** This 2015 Act being necessary for the immediate preservation of the public  
9 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect  
10 on its passage.

11

\_\_\_\_\_