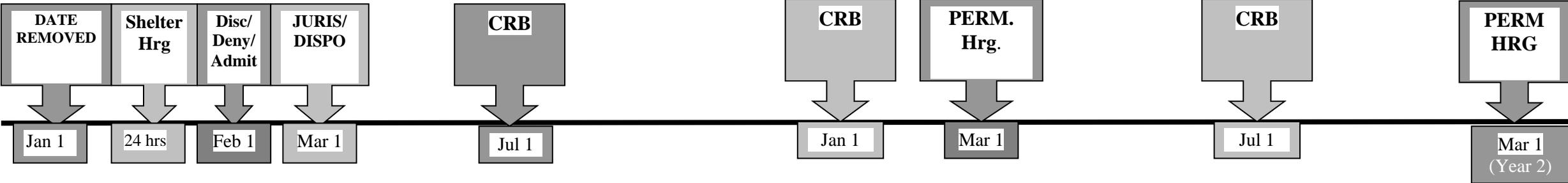


Juvenile Dependency Process and Timeline



Shelter Hearing ORS 419B.180-.185

- Must occur within 24 business hours of removal and placement in foster care.
- Petition is filed, either by DHS (statutorily authorized to file its own petition) or by the DA or juvenile department, depending on the county. A Protective Custody Report is submitted under oath by the caseworker to the court. The court may place the caseworker under oath to answer questions, but there is often no attorney with DHS to examine the worker or ask additional relevant questions and bring out important facts to justify protective custody. Parents often contest placement.
- Court must make findings of “reasonable efforts to prevent removal” and placement is in the “best interests of the child.” Failure to make “best interest” finding makes child ineligible for federal financial support for duration of foster care placement, which results in significant cost to state; state would be responsible for all costs associated with foster care placement, including guardianship and adoption assistance, until the child leaves foster care or reaches age of 18 or 21, depending on facts of the case.

Discovery/Deny/Admit ORS 419B.305

- Discovery must be completed no later than 30 days after petition filed. See ORS 419B.815 & 419B.881.
- The admit/deny hearing does not occur in every county. However, some counties have multiple other hearings and conduct settlement conferences between the shelter and jurisdictional hearings.

Jurisdictional Fact Finding ORS 419B.800 et seq

- Trial must occur no later than 60 days after petition filed except upon written order supported by factual findings of good cause to continue petition beyond 60 days.
- Petition must be proven by a preponderance of the evidence, the rules of evidence apply, evidence/exhibits are offered, witnesses examined, objections raised.
- Evidence at these hearings includes prior criminal convictions and judgments, psychological and mental health evaluations and treatment records, substance abuse evaluations and treatment records, domestic violence information and treatment records and child protective assessment information including photos of injuries to children, videotapes of interviews with children at forensic child interviewing centers, testimony of doctors, nurses, police officers, neighbors and child welfare workers.
- Admissions to certain allegations with negotiated dismissal of other allegations are common. DHS is a party to the case, and should concur with the negotiated resolution, but may not proceed without counsel if there is disagreement about settling the case or proceeding to trial.
- Jurisdictional allegations are the basis for the entire remainder of the dependency case. DHS must ensure that services it provides bear a “rational relationship” to the jurisdictional allegations. If the jurisdictional allegations do not adequately reflect the parental deficiencies that must be resolved so the parent can safely care for their child, DHS may not be able to require parents engage in necessary services.

Dispositional Hearing ORS 419B.325

- Held after jurisdiction established, often the same day. In counties where the DA handles jurisdiction, sometimes the DA leaves the courtroom and DHS has to handle this hearing on their own without an attorney. DHS recommends how the court should “dispose” of the case, which includes requests that court order parents to participate in certain services and comply with specific conditions; court may make any other orders it determines appropriate related to child safety, and ongoing casework.

Citizen’s Review Board ORS 419A.106

- First review must occur no more than 6 months after date child placed in substitute care and no less frequently than every 6 months thereafter.
- CRB review may be cancelled if “complete judicial review” completed within 60 days prior to next scheduled board review.

Permanency Hearing ORS 419B.470-.476, ORS 419B.498

- Court must hold a permanency hearing within 12 months after jurisdiction is established or within 14 months after child placed in substitute care, whichever is sooner.
- Court must also hold a permanency hearing within 30 days of judicial finding of aggravated circumstances, within 3 months after a ward removed from court sanctioned permanent foster care or at any time upon order of the court or the request of certain parties, unless good cause is shown, otherwise. Subsequent permanency hearings required not less frequently than every 12 months after initial permanency hearing.
- Permanency hearings are required anytime DHS is requesting the permanency plan be changed from “return to parent” to any other plan. By statute, plans are preferred in the following order: return to parent; adoption; guardianship; and APPLA (permanent foster care, residential treatment or another planned permanent living arrangement).
- To change the plan, DHS must establish by a preponderance of the evidence that the parent has not made sufficient progress to allow the child to return home within a reasonable time. The court may consider only the progress of the parents to address the jurisdictional allegations that were admitted or adjudicated. If the jurisdictional allegations were inadequate because they did not address all parental deficiencies, the parent’s progress might not be measured appropriately, and the court may be required to allow a child to return to an unsafe home. In the alternative, additional jurisdictional petitions may need to be filed and litigated to ensure that parents address all of the issues that prevent them from safely parenting their child and prevent a child from returning to an unsafe home. Evidence and testimony at permanency hearings includes a description of all services provided to parents and whether they have benefited from that treatment to the point that the child can safely return to the parent, including psychological and mental health evaluations and treatment, substance abuse evaluations and treatment, domestic violence information and treatment records and parent training, Witnesses routinely called to testify include psychologists, children’s and parents therapists, drug and alcohol treatment providers, teachers and counselors, foster parents and child welfare workers.

Guardianship Hearing ORS 419B.365-.366

- If the court changes plan to guardianship at permanency hearing, subsequent hearing to establish guardianship, either by motion or petition. Service must be accomplished on the parents.
- Permanent guardianships must be proven by clear and convincing evidence, which is the same standard as a termination of parental rights proceeding.
- Durable guardianships must be proven by preponderance of evidence.

Termination of Parental Rights ORS 419B.498, .500 et seq

- If the court changes plan to adoption at permanency hearing, DHS through state’s attorney (except in Multnomah County) files a petition to terminate parental rights, considered the capital case of family law. Personal service is required.
- Termination must be proven by clear and convincing evidence (beyond a reasonable doubt in ICWA cases).
- Trials often include 20-50 witnesses and span 2 days to 2 weeks. More than half of the witnesses may be expert witnesses.
- Cases endure intense scrutiny on appeal, including de novo review.