Juvenile Law 2015: Children at the Crossroads—The Intersection Between Delinquency and Dependency

Cosponsored by the Juvenile Law Section

Friday, February 27, 2015
8:30 a.m.–4:30 p.m.

7 General CLE credits
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OREGON STATE BAR
16037 SW Upper Boones Ferry Road
P.O. Box 231935
Tigard, OR 97281-1935
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   — Carrie van Dijk, Oregon Department of Human Services, Salem, Oregon

   — Erin Galli, Appellate Division, Oregon Department of Justice, Salem, Oregon
   — Shannon Storey, Office of Public Defense Services, Salem, Oregon

   — Deena Corso, Juvenile Services Division, Department of Community Justice, Portland, Oregon

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   — Margaret Braun, Oregon Youth Authority, Salem, Oregon
   — Shannon Myrick, Oregon Youth Authority, Salem, Oregon
   — Joseph O’Leary, Oregon Youth Authority, Salem, Oregon
SCHEDULE

Moderator: Tahra Sinks, Attorney at Law, Salem

7:30  Registration

8:30  Oregon’s Ombudsman Program
   ♦ Overview of the ombudsman’s role: types of calls, the callers, and their concerns
   ♦ Oregon Foster Child Bill of Rights
   Darin Mancuso, Oregon Department of Human Services, Salem

9:15  What Children in Foster Care Want You to Know
   Moderator: Darin Mancuso, Oregon Department of Human Services, Salem
   Former foster children, Foster Care Connect

9:45  Break and Section Award Presentation

10:00 Independent Living Program: Opportunities for Children Transitioning Out of Foster Care
   ♦ Resources available for teens and young adults in foster care
   ♦ Demystifying ILP funds and tuition and fee waivers for current and former foster youth
   Rosemary lavenditti, Oregon Department of Human Services, Salem
   Carrie van Dijk, Oregon Department of Human Services, Salem

11:00 Appellate Update, Part I
   Erin Galli, Appellate Division, Oregon Department of Justice, Salem
   Shannon Storey, Office of Public Defense Services, Salem

Noon  Lunch and Section Award Presentation

1:00  Appellate Update, Part II
   Erin Galli, Appellate Division, Oregon Department of Justice, Salem
   Shannon Storey, Office of Public Defense Services, Salem

2:00  Crossover Youth Practice Model: Improving Outcomes for Youth in the Child Welfare and Juvenile Justice Systems
   ♦ Overview of the Crossover Youth Practice Model (CYPM)
   ♦ Implementation in Multnomah County
   ♦ Lessons learned and implications for future work
   Deena Corso, Juvenile Services Division, Department of Community Justice, Portland

2:30  Break and Section Award Presentation

2:45  Oregon Youth Authority: Connecting Youth with Appropriate Programs
   ♦ New evaluation procedures
   ♦ OYA study of youth with both dependency and delinquency cases
   Margaret Braun, Oregon Youth Authority, Salem
   Shannon Myrick, Oregon Youth Authority, Salem
   Joseph O’Leary, Oregon Youth Authority, Salem

4:30  Adjourn
Margaret Braun, Oregon Youth Authority, Salem. Dr. Braun joined the Oregon Youth Authority (OYA), the state’s juvenile justice agency, as a senior research analyst in 2013. Prior to OYA, she worked as a research analyst for the Oregon Department of Corrections (DOC). While at DOC, Dr. Braun chaired the agency’s Research Committee and contributed to a number of projects, including a study of correctional officer occupational health in partnership with Portland State University and Oregon Health & Science University. She has been a consultant to the Oregon Department of Justice, serves as an evaluator for the Oregon Criminal Justice Commission, and has published and contributed to numerous scholarly articles. She earned her master’s degree and Ph.D. in applied psychology from Portland State University.

Deena Corso, Juvenile Services Division, Department of Community Justice, Portland. Ms. Corso is a senior manager with the Multnomah County Department of Community Justice (DCJ) Juvenile Services Division. She is responsible for pre-adjudication services, treatment services, and community interface services within the Juvenile Services Division. She has extensive experience in all areas of juvenile justice and has been a trainer both locally and nationally on evidence-based practices. She has led several initiatives related to juvenile justice system reform and has a long track record of successful collaborations with community partners and stakeholders. Ms. Corso is chair of the American Probation and Parole Association Juvenile Justice Committee. She holds a Master’s degree in Counseling Psychology from the University of Oregon, is a Licensed Professional Counselor (LPC), and has been certified as both a therapist and supervisor in Multi-Systemic Therapy and Multi-Dimensional Family Therapy. Ms. Corso is also a certified local trainer for the Global Appraisal of Individual Needs.

Erin Galli, Appellate Division, Oregon Department of Justice, Salem. Ms. Galli is a Senior Assistant Attorney General in the Appellate Division of the Oregon Department of Justice. She was in private practice from 1996 through 2013 and represented clients in a variety of legal matters. From 2010 to 2013, Ms. Galli practiced in Tillamook County, representing parents and children in dependency cases.

Rosemary Iavenditti, Oregon Department of Human Services, Salem. Ms. Iavenditti has worked for the Department of Human Services, Child Welfare, for 24 years and has served as the Independent Living Program (ILP) Coordinator since April 2001. She has expertise in independent living program policy, federal regulations, and providing independent living services to youth in the child welfare system. Ms. Iavenditti is a member of the National Independent Living Association, Oregon Foster Youth Connection, and the National Youth in Transition Database Technical Work Group. Ms. Iavenditti has conducted transition planning training across Oregon and at national ILP conferences.

Darin Mancuso, Oregon Department of Human Services, Salem. Mr. Mancuso began his employment with the Governor’s Advocacy Office as Oregon’s first Foster Care Ombudsman on March 31, 2014, where he works with youth, families, and systems in an effort to create a safer, empowering, and caring environment for children placed in foster care. Prior to that, he spent more than 18 years at Clackamas County working primarily with juvenile sex offenders and coordinating the drug court program.

Shannon Myrick, Oregon Youth Authority, Salem. Dr. Myrick is the strategic initiatives manager for the Oregon Youth Authority (OYA), where she advises the agency’s leadership on data-based decision making. She was instrumental in developing OYA’s Youth Reformation System, a culture-changing initiative that uses advanced research to reduce victimization by helping troubled youth lead productive, crime-free lives. She joined OYA in 2008 as a research analyst before her promotion to strategic initiatives manager. Dr. Myrick is an expert on adolescent development and its relationship with juvenile justice, and she has lectured and published scholarly articles on the subject. She received her master’s and doctorate degrees from Portland State University, where she also serves as an adjunct professor of psychology.
Joseph O’Leary, Oregon Youth Authority, Salem. Mr. O’Leary has served as deputy director of the Oregon Youth Authority since June 2012. His career has been dedicated to public service, from working as a public defender in Oregon’s busiest juvenile court to advising two of the state’s governors on public safety and legal issues. Mr. O’Leary has served as general counsel and senior policy advisor in the Governor’s Office, counsel to the Oregon Senate Judiciary Committee, and director of Policy, Planning, and Legislative Analysis at the Oregon Public Employees Retirement System. Prior to his state government service, Mr. O’Leary was a trial attorney in Portland. He began his legal career as a public defender representing clients in juvenile delinquency and dependency matters. Afterward, he spent several years in private practice representing members of law enforcement, corporate officers, lawyers, and employees.

Tahra Sinks, Attorney at Law, Salem. Ms. Sinks focuses her practice in the area of juvenile law, including dependency, delinquency, DHS defense, criminal defense, family and divorce, and adoption. In addition to extensive trial work, she helps to mediate disputes between parents and advocates for the rights of parents and grandparents in custody matters. She is a member of the Marion County Juvenile Advocacy Consortium, the Marion County Association of Defenders, and the Oregon Criminal Defense Lawyers Association, where she was a longtime board member. She has coauthored guidebooks on the Oregon Juvenile Code and organized several conferences on dispute resolution and juvenile law.


Carrie van Dijk, Oregon Department of Human Services, Salem. Ms. van Dijk is the Child Welfare Youth Transition Specialist in the DHS Independent Living Program. Ms. van Dijk has worked for the state for more than 18 years in a variety of capacities serving children and families through DHS as well as the Portland State University Child Welfare Partnership. Ms. van Dijk has been actively involved in the creation and implementation of the new Foster Children Bill of Rights (which became law January 1, 2014), legislation work, and training of DHS staff, community partners, and foster parents. She collaborates with the Foster Care Ombudsman to deliver training across the state. Ms. van Dijk is also an adult advisor to the Tri-County Oregon Foster Youth Connection, a statewide youth-led organization of current and former foster youth ages 14 through 25 promoting change and improvement in the Oregon foster care system.
Chapter 1

Oregon’s Ombudsman Program

DARIN MANCUSO
Oregon Department of Human Services
Salem, Oregon

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Oregon Foster Children’s Bill of Rights

Presented by: Darin Mancuso, Foster Care Ombudsman
Governor’s Advocacy Office

Tell me a fact and I’ll learn.
Tell me a truth and I’ll believe.
Tell me a story and it will live in my heart forever.
How Did We Get Here?

Oregon’s Life Cycle of a “Bill…”
Senate Bill 123-
June 2013

- Drafted by OFYC with input from 100 foster youth
- Created a Foster Children Bill of Rights
- Every child in foster care gets a copy
- Provides every teen in care a “how to” packet of information
- Creates a position at the Governor’s Advocacy Office for a Foster Care Ombudsman

Foster youth deserve to know their rights and should be empowered to assert those rights. While we need to reduce the need for foster care, we also have a responsibility to do everything possible to make foster care safe and supportive. The Foster Youth Bill of Rights ensures Oregon’s foster youth have access to tools and support they deserve while helping them reach their full potential. I commend the Oregon Foster Youth Connection members who helped advocate for this important legislation.”

- Governor Kitzhaber
Chapter 1—Oregon’s Ombudsman Program

Senate Bill 123

• Created ORS 418.200-202 which mandates certain Rights (see attachment) and also the creation of the Bill of Rights

• Added “teeth” to existing Rights of Children Policy

• Created the Foster Care Ombudsman position

• Law went into effect January 1, 2014

Oregon Revised Statutes
Chapter 418 — Child Welfare Services
2013 EDITION

OREGON FOSTER CHILDREN’S BILL OF RIGHTS

418,200 Definitions. As used in ORS 418.200 to 418.202, “foster child” means a child who is in the legal custody of the Department of Human Services pursuant to the provisions of ORS chapter 418, 419B or 419C and who is or was placed in substitute care with a foster parent, a child-caring agency as defined in ORS 418.205 or an independent residence facility established or certified under ORS 418.475. [2013 c.515 §1]

418.201 Legislative intent. It is the intent of the Legislative Assembly that each foster child have certain essential rights, including but not limited to the following:
Chapter 1—Oregon’s Ombudsman Program

Oregon Revised Statutes
Chapter 418 — Child Welfare Services
2013 EDITION

1. To have the ability to make oral and written complaints about care, placement or services that are unsatisfactory or inappropriate, and to be provided with information about a formal process for making complaints without fear of retaliation, harassment or punishment.

2. To be notified of, and provided with transportation to, court hearings and reviews by local citizen review boards pertaining to the foster child’s case when the matters to be considered or decided upon at the hearings and reviews are appropriate for the foster child, taking into account the age and developmental stage of the foster child.

3. To be provided with written contact information of specific individuals whom the foster child may contact regarding complaints, concerns or violations of rights, that is updated as necessary and kept current.

4. When a foster child is 14 years of age or older, to be provided with written information within 60 days of the date of any placement or any change in placement, regarding:

   (a) How to establish a bank account in the foster child’s name as allowed under state law;
   (b) How to acquire a driver license as allowed under state law;
   (c) How to remain in foster care after reaching 18 years of age;
   (d) The availability of a tuition and fee waiver for a current or former foster child under ORS 351.293;
   (e) How to obtain a copy of the foster child’s credit report, if any;
Oregon Revised Statutes
Chapter 418 — Child Welfare Services
2013 EDITION

f) How to obtain medical, dental, vision, mental health services or other treatment, including services and treatments available without parental consent under state law and

(g) A transition toolkit, including a comprehensive transition plan.

Oregon Revised Statutes
Chapter 418 — Child Welfare Services
2013 EDITION

(5) With respect to a foster child’s rights under the federal and state constitutions, laws, including case law, rules and regulations:

(a) To receive a document setting forth such rights that is age and developmentally appropriate within 60 days of the date of any placement or any change in placement;

(b) To have a document setting forth such rights that is age and developmentally appropriate posted at the residences of all foster parents, child-caring agencies and independent resident facilities; and
(c) To have an annual review of such rights that is age and developmentally appropriate while the foster child is in substitute care.

(6) To be provided with current and updated contact information for adults who are responsible for the care of the foster child and who are involved in the foster child’s case, including but not limited to caseworkers, caseworker supervisors, attorneys, foster youth advocates and supporters, court appointed special advocates, local citizen review boards and employees of the Department of Human Services that provide certification of foster parents, child-caring agencies and independent resident facilities.

(7) To have a hotline phone number that is available to the foster child at all times for the purposes of enabling the foster child to make complaints and assert grievances regarding the foster child’s care, safety or well-being. [2013 c.515 §2]

(1) The Department of Human Services shall adopt rules establishing the Oregon Foster Children’s Bill of Rights, specifying the rights of foster children consistent with the provisions of ORS 418.201.

(2) The department shall periodically review the rules establishing the Oregon Foster Children’s Bill of Rights to ensure that the bill of rights complies with the principles and requirements set forth in ORS 418.201. The department shall promote the participation of current and former foster children in the development of the rules constituting the Oregon Foster Children’s Bill of Rights and the development of state foster care and child welfare policy. [2013 c.515 §3]
Role of the Foster Care Ombudsman

Darin Mancuso, Foster Care Ombudsman  
Governor’s Advocacy Office  
(503) 945-5897

GAO

• GAO has 1 Administrator, 6 “generalist” Ombudsmen and 1 Client Civil Rights Investigator... and now, a Foster Care Ombudsman

• Generalist respond to DHS/OHA complaints and concerns for all agency programs

• Provide guidance, investigate and research compliance of rules/policies, problem solve perceived inequities, track and identify systemic trends or training needs
The Ombudsman

- Confidential
- Active Listening
- Problem Solving
- Empowerment - Youth put in control of direction... if possible
- Guidance
- Investigation
- Rule Compliance
- Trend Reporting

Mission

- All youth in foster care are treated with dignity, respect and their rights are honored
- All youth in foster care are safe
- Provide reports that discern areas of systemic concerns
- A place for foster children to contact without fear of retaliation for expressing their thoughts and feelings
- Work as a part of a team on behalf of the youth
Roles & Responsibilities

Youth       DHS Caseworker
Foster Care Ombudsman  Certifier
ILP Provider  Tribes
Attorney & Judge  Foster Parent
CASA  CRB Other Community Partners

“Spark...”

Look into my eyes take a glimpse at my soul
And maybe you might see things that I could never know
My road has been dark, many come and go
Some have taught me lessons and some have burned me slow
But I believe true light will shine and guide me to the finish
A fire will ignite and in my heart pain will diminish
A journey of a man starts when he learns he doesn't know
And sometimes we need failures so we can truly grow
So never lose hope, because with true hope one can inspire
And sometimes all you need is a spark to create a forest fire

~Patrick Kindred, Former Oregon Foster Youth
Contact information:

Darin Mancuso
Foster Care Ombudsman, Governor’s Advocacy Office
(503)945-5897

Y.E.S. Foster Care Hotline 1-855-840-6036
Darin.mancuso@state.or.us
ILP: Myths & Realities

Presented by: Rosemary Iavenditti, ILP Coordinator &
Carrie van Dijk, ILP Youth Transition Specialist

Transition Facts

Research shows that youth leaving foster care unprepared for adulthood have higher rates of:

- Homelessness & Poverty – 1 in 5 homeless after 18
- Delinquent/criminal behavior – 1 in 4 incarcerated w/in 2 years
- Pregnancy/Parenthood – 84% became a parent
- Employment vs. Unemployment – 51% unemployed
Let’s improve foster care. Get U-NYTD
http://www.fosterclub.com/article/oregon-nytd-page

Oregon NYTD Outcomes

Baseline (age 17) versus Follow-Up (age 19)

- Employed full or part-time: 10% vs. 41%
- Finished High School: 6% vs. 69%
- Attending School: 92% vs. 50%
- Supportive Adult: 92% vs. 79%
- Medicaid Coverage: 66% vs. 56% (training issue)
Fostering Connections to Success

- **Title II - Improving Outcomes for Children in Foster Care**

  This Act supports what Oregon has already been doing since 2005

- Option for states to extend care to young adults after the age of 18 up to age 21 (Section 201)

- Provides requirements for productive activity expectations of youth

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Transition Planning and Services Policy

- **Policy I-B.2.3.5, Youth Transitions**

  - Requires transition planning and details ILP services available to assist a youth with the transition to adulthood.

- **Policy I-1.2**

  - Child Specific Case Plan requires the worker to list transitional programs/services offered and provided to help a youth transition to independent living
Comprehensive Transition Plan
Development Policy

- Child 16 years of age or older and in substitute care or a young adult;
- *Child 14 years of age or older with APPLA Permanency Plan; or*
- A former foster child who requests Services described in Child Welfare Policy, I-B.2.3.1, Family Support Services, OAR 413-030-0000 to 413-030-0030 and would benefit from a comprehensive transition plan.

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Comprehensive Transition Plan
Development Policy

The caseworker must ensure the CTP includes:

- Transition Readiness Index (T1/CF69) and
- Completion of a life skills assessment with a tool approved by the Department (*CLSA*)

Casey Life Skills Assessment
(www.caseylifeskills.org)
Comprehensive Transition Planning

- Education
- Employment
- Housing
- Health (mental & physical)
- Community Connections & Supportive Relationships
- Transportation
- Life Skills

Six months prior to a child’s 18th birthday, the caseworker must convene a meeting for the purpose of a benchmark review of the CTP.

Worker must invite the child, and may include child’s parent or legal guardian, substitute caregiver, ILP provider, CASA, child’s attorney, service providers, and others the child determines are important to the meeting.
Comprehensive Transition Plan
Benchmark Review-
Determinations to be made prior to age of 18:

- Education Services
- Supportive Relationships
- Identification of Community Resources
- Employment / Academic / or Vocational Education
- Health/ Mental Health services & providers
- Life Skill development needs by age 18
- Transportation
- Sustainable housing

Dismissal of Ward Commitment
ORS 419B.337

- (i) The department has provided case planning pursuant to ORS 419B.343
- (ii) The department has provided appropriate services pursuant to the case plan;
- (iii) The department has involved the ward in the development of the case plan and in the provision of appropriate services; AND
Chapter 2—Independent Living Program: Myths and Realities

Dismissal of Ward Commitment

The court will also determine if:

- (iv) The ward has safe and stable housing and is unlikely to become homeless as a result of dismissal per ORS 419B.343

Requirements at Independence

At least 60 days prior to the date the Department requests to be relieved of legal custody, they must inform child or young adult of:

- Date, time, and location of hearing
- His/her right to attend hearing and the importance of doing so
- His/her right to request assistance with transportation
Requirements at Independence

When the court relieves the Department of custody of a child or young adult, it must provide the child with information concerning child/young adult’s case, including the following:

- Basic family information and placement history
- Health and education records

Requirements at Independence

Copies of the following and documentation in official form:

- Birth certificate
- Official proof of citizenship or resident status
- Social security card/number
- Driver’s license or other form of state identification
Requirements at Independence

Copies of the following and documentation in official form:

- Former Foster Care Youth Medical (FFCYM) as of 1/1/14 and Health Care Representative
- Death certificate of parents (where applicable)
- Written verification of placement in substitute care
- Credit Report

Independent Living Program

Mission

To empower, encourage and allow youth to move into adulthood with the knowledge and skills to become responsible and contributing members of their community.
DHS Independent Living Program

The array of services that ILP can provide includes the following:

- Daily Living Skills Training
- Discretionary Funds
- Education and Training Vouchers
- Housing Stipends
- Independent Living Housing Subsidy Program
- Chafee Housing
Other DHS Transition Services

Additional teen transition services DHS can provide:

- Driver’s Education Course Fees
- Credit Reports
- Tuition & Fee Waiver

Contracted ILP Skill Building Criteria

Eligibility:

- Age 16 or older and in substitute care (DHS or tribal) OR

- As a former foster youth, was dismissed from care at age 16 or older with 180 days of foster care placement services after age 14
Changes that Occurred 7/1/14

- Only effect the **Contracted** ILP life skills services.
- Only youth age 16 or older can be referred for Contracted ILP Services.
- More closely aligns eligibility with Federal Grant.
- Able to serve more of the older teens/young adults in care.

ILP Youth Transition Funds

- Discretionary funds
- Driver’s education
- Subsidy
- Chafee
- One-time housing
- ETV
**ILP Youth Transition Funds**

Youth Transition funds are:

- Flexible
- Support the youth’s goals
- Accessed using the CF78

**Subsidy & Chafee Housing Programs**

**PURPOSE**

Assist youth gain/practice following skills:

- Manage finances and live on a budget,
- Manage a household,
- Manage time,
- Manage life demands,
- Accept responsibility for choices and decisions made.
### ILP Housing Services

- **Independent Living Housing Subsidy**
  - Currently in care and custody of DHS
  - **age 16 or older (not yet 21)**
  - Must have court approval

- **Chafee Housing Program**
  - Dismissed from care & custody at age 18 or older.
  - Must have at least 4 hours paid employment

- **One-Time Housing funds**

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### ILP Housing Program Differences

<table>
<thead>
<tr>
<th>Category</th>
<th>IL Subsidy Housing</th>
<th>Chafee Housing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Age</td>
<td>16</td>
<td>18</td>
</tr>
<tr>
<td>DHS care &amp; custody</td>
<td>Required</td>
<td>Prohibited - Foster Care must be terminated on or after 18th birthday</td>
</tr>
<tr>
<td>DHS or Tribal</td>
<td>DHS only</td>
<td>DHS &amp; Tribal</td>
</tr>
<tr>
<td>Employment</td>
<td>Optional</td>
<td>Must be employed at least part-time</td>
</tr>
<tr>
<td>Medical Card</td>
<td>Provided by child welfare</td>
<td>No, youth must apply for Former Foster Care Youth (FFCY) Medical Program</td>
</tr>
<tr>
<td>Duration</td>
<td>12 month maximum</td>
<td>$6,000 or age 21, whichever comes first</td>
</tr>
<tr>
<td>Monthly Expenses</td>
<td>Can pay for any monthly expense (transportation, etc)</td>
<td>Can only pay for room and board (rent, food, utilities)</td>
</tr>
<tr>
<td>ETV or ETG</td>
<td>OK to use simultaneously</td>
<td>No, if room and board included in cost of attendance</td>
</tr>
</tbody>
</table>
Ability to Benefit Policy Change and Changes to the GED

Qualifying for Free Application for Federal Student Aid (FAFSA) by passing an "Ability to Benefit" Assessment (via Placement test) has been eliminated. (March 19, 2012)

Must complete high school:
   Diploma (modified is OK)
   GED

As of 1/1/14, the GED test costs increased, must be taken on a computer, and contains significant content changes.

Independent Student College Cost Reduction and Access Act

Provisions of the College Cost Reduction and Access Act: Effective July 1, 2009

- The definition of independent student adds emancipated minor and being in a legal guardianship to the definition of independent student. It also changes the orphan or ward of the court until age 18 to be orphan or ward of the court or in foster care at any time on or after 13 years of age. Congress has resolved the issue of what orphan or ward of the court really means by saying that all of the above qualify as independent.
Other Financial Resources for Post-Secondary Education...

Tuition & Fee Waiver

May use to complete a Certification Program, Associates Degree or Bachelors Degree
## The Tuition & Fee Waiver

<table>
<thead>
<tr>
<th>Funding Stream</th>
<th>Application Required</th>
<th>Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>May use a student’s Pell, FSEOG, Oregon Opportunity Grant, other federal aid, or institution aid (does not include the Chafee ETG).</td>
<td>Free Application for Federal Student Aid (FAFSA) <a href="http://www.fafsa.gov.edu">www.fafsa.gov.edu</a></td>
<td>Tuition &amp; fees waived for the equivalent of 4 years of undergraduate education at a public college or public university in Oregon. Eligible foster youth are also prioritized for the Oregon Opportunity Grant.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>May use to complete a Certification Program, Associates Degree or Bachelors Degree.</td>
</tr>
</tbody>
</table>

## Eligibility Criteria

- **Current foster youth (DHS or Tribal) OR**
- **A former foster child who left a child welfare substitute care placement at age 16 or older**, with at least 180 days (6 months) of foster care placement services after age 14.
- Volunteer 30 hours per academic year once you begin receiving the waiver to maintain eligibility.
- **Youth must** access the Waiver by age 25.
ETG and ETV
Education and Training Grant Voucher

Provides up to $3,000 per academic year for cost of attendance:

- Tuition, Fees, Books, Supplies
- Room & Board
- Personal Expenses
- Travel/Transportation

Additional Post-Secondary Funding Resources

- DREAM Scholarship for Foster Youth - OSAC universal application: https://secure.osac.state.or.us/
- Foster Care to Success (Formerly Orphan Foundation of America) non-profit organization-OFA application: https://www.orphan.org/sch/
- Oregon Student Access Commission - variety of funding streams universal application: https://secure.osac.state.or.us/
More Resources for Your Youth

- CW Procedure Manual, Chap. IV, Sect. 29
- Self Sufficiency for OHP
- Self Sufficiency for food stamps/WIC
- Public Health Department
- Mental Health Clinics
- Vocational Rehabilitation
- Family Planning Clinics
- ILP until age 21 (voluntary services)
- Medical to age 26 (effective Jan. 1, 2014)

When DHS Dismisses Custody

- Explain to youth and their families that ILP can continue once custody dismissed
- Assist those youth who want to remain in ILP to transition to voluntary services when at all possible
- Notify ILP when there is case closure
- Make sure that the youth has the essential documents, written records, & official forms that youth transitioning out need to have
Remember...

Research shows the number one indicator of future success as an adult, is for a child to have a **permanent connection** to a loving, caring, supportive person.

Independent Living and Young Adult Programs Staff

- Rosemary Iavenditti 503-945-5688
- Carrie van Dijk 503-945-5807
- Adrea Korthase 503-945-5354
- Sandy Raschko 503-945-6612
- Hayley Smith 503-945-6619
- Luke Walls 503-945-5684

*Note: for more detailed information on the ILP Programs and forms, there are two Netlinks available: “DHS Youth Transition Planning” & “ILP Services”

Call us with any questions!
### Oregon

<table>
<thead>
<tr>
<th>Total youth reported to NYTD (FY 11-13):</th>
<th>3,936</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Youth in served population (FY 13):</strong></td>
<td>2,047</td>
</tr>
<tr>
<td><strong>Youth in baseline population (FY 11):</strong></td>
<td>477</td>
</tr>
<tr>
<td><strong>Youth in follow-up population (FY 13):</strong></td>
<td>116</td>
</tr>
</tbody>
</table>

#### Served Population Highlights
Includes all youth who received at least one independent living service paid for or provided by the State CFCIP agency.

<table>
<thead>
<tr>
<th>Characteristics of youth receiving services (FY 13):</th>
<th></th>
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<tbody>
<tr>
<td>Male</td>
<td>42%</td>
</tr>
<tr>
<td>Female</td>
<td>58%</td>
</tr>
<tr>
<td>Hispanic</td>
<td>12%</td>
</tr>
<tr>
<td>White</td>
<td>80%</td>
</tr>
<tr>
<td>In foster care</td>
<td>86%</td>
</tr>
<tr>
<td>Black</td>
<td>15%</td>
</tr>
<tr>
<td>In federally-recognized tribe</td>
<td>4%</td>
</tr>
<tr>
<td>American Indian</td>
<td>12%</td>
</tr>
<tr>
<td>Receiving special education</td>
<td>31%</td>
</tr>
<tr>
<td>Asian</td>
<td>2%</td>
</tr>
<tr>
<td>Age range</td>
<td>14-26</td>
</tr>
<tr>
<td>Native Hawaiian</td>
<td>1%</td>
</tr>
<tr>
<td>Average age</td>
<td>17%</td>
</tr>
</tbody>
</table>

#### Number of services received (FY13):

- 44% 1 to 2
- 44% 3 to 4
- 12% 5 or more

#### Education level of youth receiving services (FY 13):

- Under 6th grade: 0%
- 6th grade: 10%
- 7th grade: 20%
- 8th grade: 30%
- 9th grade: 40%
- 10th grade: 50%
- 11th grade: 60%
- 12th grade: 70%
- Post 12th: BLANK

#### Type of services received (FY 11-13):

- **Independent Living Needs Assessment**
- **Academic Support**
- **Post-Secondary Educational Support**
- **Career Preparation**
- **Employment/Vocational Program**
- **Budget & Financial Management**
- **Housing Education & Home Management**
- **Health Education & Risk Prevention**
- **Family Support & Healthy Marriage**
- **Mentoring**
- **Supervised Independent Living**
- **Room & Board Financial Assistance**
- **Education Financial Assistance**
- **Other Financial Assistance**

This snapshot was prepared by the Children’s Bureau and contains a summary of highlights from NYTD data reported by states between Fiscal Year (FY) 2011 and 2013. The data are current as of February 2014. Please contact NYTDinfo@acf.hhs.gov if you have any questions about information in this data snapshot.
## Baseline and Follow-Up Population Highlights

Includes all youth who were eligible to take the NYTD survey at age 17, 19 and 21.

<table>
<thead>
<tr>
<th>Baseline Population (age 17)</th>
<th>Follow-Up Population (age 19)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Total baseline youth surveyed (FY 11)</strong></td>
<td>116</td>
</tr>
<tr>
<td><strong>Baseline participation rate</strong>*: (only includes youth in foster care surveyed on time)</td>
<td>24%</td>
</tr>
<tr>
<td><strong>Baseline participation rate</strong>*:</td>
<td>24%</td>
</tr>
<tr>
<td><strong>Follow-up participation rate</strong>:</td>
<td>74%</td>
</tr>
</tbody>
</table>

### Characteristics of baseline survey participants:

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Male</th>
<th>Female</th>
<th>White</th>
<th>Black</th>
<th>American Indian</th>
<th>Hispanic</th>
<th>Asian</th>
<th>Native Hawaiian</th>
<th>Receiving services</th>
<th>In foster care</th>
</tr>
</thead>
<tbody>
<tr>
<td>%</td>
<td>37%</td>
<td>63%</td>
<td>87%</td>
<td>13%</td>
<td>6%</td>
<td>11%</td>
<td>3%</td>
<td>1%</td>
<td>63%</td>
<td>100%</td>
</tr>
</tbody>
</table>

### Characteristics of follow-up survey participants:

<table>
<thead>
<tr>
<th>Characteristic</th>
<th>Male</th>
<th>Female</th>
<th>White</th>
<th>Black</th>
<th>American Indian</th>
<th>Hispanic</th>
<th>Asian</th>
<th>Native Hawaiian</th>
<th>Receiving services</th>
<th>In foster care</th>
</tr>
</thead>
<tbody>
<tr>
<td>%</td>
<td>37%</td>
<td>63%</td>
<td>88%</td>
<td>8%</td>
<td>8%</td>
<td>11%</td>
<td>3%</td>
<td>0%</td>
<td>58%</td>
<td>48%</td>
</tr>
</tbody>
</table>

### Reasons for non-participation:

<table>
<thead>
<tr>
<th>Reason for non-participation</th>
<th>Total</th>
<th>Youth in foster care</th>
<th>Youth not in foster care</th>
</tr>
</thead>
<tbody>
<tr>
<td>Youth declined</td>
<td>2%</td>
<td>2%</td>
<td>0%</td>
</tr>
<tr>
<td>Parent declined</td>
<td>&lt;1%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Incapacitated</td>
<td>5%</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>Incarcerated</td>
<td>1%</td>
<td>1%</td>
<td>1%</td>
</tr>
<tr>
<td>Runaway or missing</td>
<td>4%</td>
<td>3%</td>
<td>3%</td>
</tr>
<tr>
<td>Unable to locate/invite</td>
<td>47%</td>
<td>19%</td>
<td>29%</td>
</tr>
</tbody>
</table>

### Reasons for non-participation:

<table>
<thead>
<tr>
<th>Reason for non-participation</th>
<th>Total</th>
<th>Youth in foster care</th>
<th>Youth not in foster care</th>
</tr>
</thead>
<tbody>
<tr>
<td>Youth declined</td>
<td>2%</td>
<td>2%</td>
<td>0%</td>
</tr>
<tr>
<td>Parent declined</td>
<td>0%</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Incapacitated</td>
<td>1%</td>
<td>1%</td>
<td>0%</td>
</tr>
<tr>
<td>Incarcerated</td>
<td>1%</td>
<td>1%</td>
<td>0%</td>
</tr>
<tr>
<td>Runaway or missing</td>
<td>3%</td>
<td>2%</td>
<td>3%</td>
</tr>
<tr>
<td>Unable to locate/invite</td>
<td>19%</td>
<td>2%</td>
<td>29%</td>
</tr>
</tbody>
</table>

### Outcomes reported by survey participants:

<table>
<thead>
<tr>
<th>Outcome area</th>
<th>Age 17</th>
<th>Age 19</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>All youth</td>
<td>Youth in foster care</td>
</tr>
<tr>
<td>Employed full- or part-time</td>
<td>10%</td>
<td>41%</td>
</tr>
<tr>
<td>Receiving public assistance</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Finished high school or GED</td>
<td>6%</td>
<td>69%</td>
</tr>
<tr>
<td>Attending school</td>
<td>92%</td>
<td>50%</td>
</tr>
<tr>
<td>Referred for substance abuse</td>
<td>31%</td>
<td>9%</td>
</tr>
<tr>
<td>treatment</td>
<td>(in lifetime)</td>
<td>(in past 2 years)</td>
</tr>
<tr>
<td>Incarcerated</td>
<td>26%</td>
<td>9%</td>
</tr>
<tr>
<td>Had children</td>
<td>4%</td>
<td>2%</td>
</tr>
<tr>
<td>(in lifetime)</td>
<td>(in past 2 years)</td>
<td>(in past 2 years)</td>
</tr>
<tr>
<td>Homeless</td>
<td>23%</td>
<td>16%</td>
</tr>
<tr>
<td>(in lifetime)</td>
<td>(in past 2 years)</td>
<td>(in past 2 years)</td>
</tr>
<tr>
<td>Connection to adult</td>
<td>92%</td>
<td>79%</td>
</tr>
<tr>
<td>Medicaid coverage</td>
<td>66%</td>
<td>56%</td>
</tr>
<tr>
<td>(in lifetime)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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*Juvenile Law 2015: Children at the Crossroads—The Intersection Between Delinquency and Dependency 2–22
Chapter 2—Independent Living Program: Myths and Realities

**STAFF TOOLS Child Welfare**

**Child Welfare Policy**

| I-B.2.3.5 Transmittal | 413-030-0400 thru 0460 | Youth Transitions | 11/03/09 |

[http://www.dhs.state.or.us/policy/childwelfare/manual_1/i-b235.pdf](http://www.dhs.state.or.us/policy/childwelfare/manual_1/i-b235.pdf)

*******************************

**Child Welfare Procedure Manual**

**Chapter 4: Services to Children**

**Section 29:** Youth Transitions

**Section 33:** Obtaining a Driver’s Permit and a Driver’s License for Youth in Care Under Age 18

[http://www.dhs.state.or.us/caf/safety_model/procedure_manual/index.html](http://www.dhs.state.or.us/caf/safety_model/procedure_manual/index.html)

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**New DHS Independent Living Program Website**


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**Oregon Revised Statutes - 2011 Edition**

[http://www.leg.state.or.us/ors/419b.html](http://www.leg.state.or.us/ors/419b.html)

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**NYTD Survey Link**

[https://www.fosterclub.com/survey/nytd-baseline-oregon](https://www.fosterclub.com/survey/nytd-baseline-oregon)

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Don’t forget to “like” us on FaceBook at Oregon ILP
Requirements at Independence: “Transition Tool Kit” Checklist

When the court relieves the Department of custody of the child/young adult, the caseworker must provide the child or young adult with a “Transition Tool Kit.” These are the essential documents, written records, and official forms that youth transitioning out of care need to have regarding their medical history, for employment purposes, or to continue their post-secondary education. It is important to sit down with the youth to go through the information and to **be open to answering questions of significance to them**. Most of these important documents should already be in the case file. If they are not, then the caseworker should start to gather these at least 60 days prior to the court hearing (some will take longer to obtain, so the caseworker should plan accordingly).

This includes:

- Information about family/placement history/tribal affiliation unless the information would endanger themselves or another child.
- Location & status of siblings & contact information the child/young adult can use should he/she want to obtain this information in the future unless the information would endanger themselves or another child.
- Health and immunization records, including whether they have identified a Health Care Representative and completed an Oregon Advanced Directive. The **Former Foster Care Youth Medical Referral Form** should have previously been completed with the youth but if there are questions or additional assistance is required, contact the DHS Children’s Medical Unit (CMED) at: 503-945-5720 or 503-947-2598 or Email: 5508.C-med@state.or.us.
- Birth Certificate (original, with copy in file as the majority of situations requiring a birth certificate as documentation require the original).
- Official proof of citizenship or residency
- Social Security Card (original, as the majority of situations requiring a social security card as documentation require the original).
- Driver’s License or other form of state photo ID
- If applicable, copy of parent’s death certificate
- Written verification of placement in substitute care through the Department or one of the recognized tribes between the ages of 14 to 18. This information will assist a youth should s/he decide to move out-of-state and attempt to access Chafee ILP or ETG services.
- Copy of the youth’s credit report
Oregon Independent Living Program
List of Services and Eligibility Requirements

**ILP Skill Building**
(Federally Funded)

Eligibility:
- Age *16* or older and in substitute care (DHS or Tribal), OR
- A former foster child who left child welfare substitute care placement at age 16 or older, with at least 180 days (six months) of placement services after age 14.

Services: **Contracted** out to local non-profits, for-profits, or Tribes.
- Daily Living Skills such as: money management, household maintenance, transportation, legal issues, health, community resources, housing options, personal hygiene, employment readiness
- Educational Assistance such as: tutoring, homework/study groups, college tours, financial aid/scholarship applications

*Note:* While youth may not be referred to an ILP Contractor until age 16, this does not relieve DHS of the requirement to assist those youth ages 14 and 15 years old to craft a transition plan and gain the life skills necessary to prepare for adulthood and self-sufficiency. DHS should use community resources to assist youth with skills (e.g. foster parents, Boys & Girls clubs, 4-H, etc.)

**ILP Discretionary Funds**
(Federally Funded)

Eligibility:
- Age *14* or older and in substitute care (DHS or Tribal), OR
- A former foster child who left child welfare substitute care placement at age 16 or older, with at least 180 days (six months) of placement services after age 14.
- Access using the Youth Transition Funds Request form (CE 78).

Services: Provided directly by DHS caseworkers
- Small amount of discretionary funds to assist a youth obtain items or services needed to meet his or her goals for transition.

**Education and Training Vouchers (ETV)**
(Federally Funded)

Eligibility:
- Age 14 or older and is in child welfare substitute care (DHS or Tribal), OR
- A former foster child who left a child welfare substitute care placement at age 16 or older, with at least 180 days (six months) of foster care placement services after age 14.
- Youth must be on the program prior to age 21
- If youth are receiving services at age 21, can continue to receive until 23rd birthday.

Services: Provided by DHS in collaboration with Office of Student Access & Completion (OSAC).
- Youth may receive up to $3,000 per academic year. Amount is based on need.
- Youth must be accepted/enrolled in a postsecondary education or training program in order to receive funds (application available at: [http://www.oregonstudentaid.gov/chafeeetv.aspx](http://www.oregonstudentaid.gov/chafeeetv.aspx))

Note: Youth may not access both the ETV funds and Chafee Housing funds at the same time. However, if Room & Board is not included in a school’s cost of attendance, then the youth may be able to simultaneously access both programs.
IL Subsidy Program (ILSP)
(State General Funds, some federal/other)

Eligibility:
- Age 16 or older
- In DHS care and custody
- 40 hours of activity per week (work, education, or combination of the two)
- Has at least one prior substitute care placement
- Has approval of the court to participate
- If youth has not completed high school, must be actively working to complete high school or obtain a GED.
- Youth must be enrolled for ILP skill building services.
- Youth cannot live with biological or legal parent(s).

Services: Provided directly by DHS
- Youth may receive up to $600 per month to live independently for a maximum of one year.

Chafee Housing Program
(Federally Funded)

Eligibility:
- Age 18 or older, but not yet 21
- A former foster child who left a child welfare substitute care placement at age 18 or older, with at least 180 days (six months) of foster care placement services after age 14.
- 40 hours of activity per week (work, education, or combination of the two – must include at least 4 hours of paid employment)
- If youth has not completed high school, must be actively working to complete high school or obtain a GED.
- Youth must be enrolled for ILP skill building services.
- Youth cannot live with biological or legal parent(s).

Services: Provided directly by DHS
- Youth may receive up to $600 per month to live independently, for a maximum of $6,000 or age 21, whichever comes first.
- Please advise youth that Chafee Housing services vary from state to state. They should make certain to check with a state prior to moving.

ILP services are available to former foster youth that were discharged from care at age 16 or older with at least 180 days (six months) of foster care placement services after age 14. Youth can be returned home, in a guardianship, or living independently and still retain eligibility for some ILP services. The ILP Housing services are the only ILP services a former foster youth will lose if discharged after age 16 and prior to age 18 (with 180 days of care).

To access services as a former foster youth, the youth will need to go to the local DHS child welfare office and request “voluntary services.” The youth will then go through the intake process. If the youth is under the age of 18, the parent(s) will need to sign the Voluntary Services request (form CF 304). If a young adult (age 18 – 20), the youth can sign for themselves. All services end at age 21 – ETV may be an exception.

For details about Youth Transitions and ILP services see the DHS Procedure Manual (Chapter 4, Sections 29 and 33) at:
http://www.dhs.state.or.us/caf/safety_model/procedure_manual/index.html &
Financial Aid for Foster Youth: Grants and Scholarships

Federal Pell Grant: Foster youth are eligible for this grant as they have “independent” status. Accessed through http://fafsa.ed.gov/
The following website provides solutions to the questions foster youth, adopted youth, or youth in a guardianship have regarding how to answer questions about family income: http://www.nasfaa.org/annualpubs/FosterYouthFAFSA.pdf

Federal Supplemental Educational Opportunity Grant (FSEOG): Foster youth are eligible for this grant as they have “exceptional financial need”. Access through www.fafsa.ed.gov

Oregon Opportunity Grant: Foster youth often receive this grant due to financial need. It can only be used by Oregon residents and at a nonprofit college or university in Oregon. Access through completing the FAFSA. To get more information go to www.oregonstudentaid.gov

Education Training Voucher/Grant (ETV or ETG): Funded through the Chafee Foster Care Independence Program (CFCIP). This grant provides up to $3,000.00 a year for youth who were in foster care (DHS or one of the federally recognized tribes) and dismissed from care at age 16 or older with 180 days of foster care placement services. If a youth is receiving these funds at age 21, s/he is eligible to apply for funding until age 23. Access application through www.oregonstudentaid.gov/chafeeetv.aspx

Youth must apply for their financial aid between January 1st and March 1st (FAFSA, OSAC & ETV applications) in order to obtain maximum funding for post-secondary education.

“Foster Care to Success” (formerly Orphan Foundation of America) Scholarship Program: Several scholarships are available through the Orphan Foundation of America including the Casey Family Scholarships. For more information go to www.orphan.org and click on ‘scholarships’.

National Foster Parent Association Scholarships: To get more information go to http://www.nfpainc.org. This website also lists a full scholarship for the University of Phoenix.


Office of Student Access & Completion: 400+ scholarships are available through the Office of Student Access & Completion at www.oregonstudentaid.gov including:

- Irmgard Schultz Scholarship: This scholarship is privately funded and can be accessed through OSAC. Note: Foster youth are a secondary priority. First priority is to any graduate from Jackson County.

Updated 9-05-14
Financial Aid for Foster Youth: Grants and Scholarships

- **DREAM Scholarship for Foster Youth:** This scholarship was initially funded by the Oregon Legislature but is now funded by private donations. Primary eligibility is for those former foster teens who do not meet the requirements for the ETV listed above. However, as a secondary purpose, this scholarship can serve youth who were youth adopted from DHS child welfare between the ages of 14 ½ and 16; former foster youth who did not receive Chafee funds before age 21, or are over age 23 (less than age 26) and have not yet completed their education.

**To contribute to the DREAM Scholarship:**
- [http://www.oregonstudentaid.gov/donate.aspx](http://www.oregonstudentaid.gov/donate.aspx)
- Make checks payable to: Office of Student Access & Completion
- Put **Code 442** in the “memo” section of your check.
- Mail check to: Office of Student Access & Completion, Grants and Scholarship Division, 1500 Valley River Drive, Suite 100, Eugene, OR 97401.

- **Oregon Tuition & Fee Waiver:**
  Once a student is enrolled and receiving the tuition and fee waiver at one of Oregon’s public colleges or universities, the student is entitled to the equivalent of 4 years of undergraduate studies. To be eligible a youth must:

  1) Have at least 180 days of Oregon child welfare care (DHS or Tribe) after the age of 14 and have been in DHS or Tribal custody at age 16 or older.
  2) Submit the Free Application for Federal Student Aid (FAFSA).
  3) A student must complete 30 hours of volunteer activities to retain eligibility for year 2 and all subsequent years.
  4) A student must enroll prior to age 25. If accessing the program at age 25, the student may continue until they have accessed the equivalent of 4 years of undergraduate studies. Students must make satisfactory progress.

**QUESTIONS?** Contact the ILP Desk

  Sandy Raschko, ILP Fiscal Assistant  
  Phone #: 503.945.6612

  Rosemary Iavenditti, ILP Coordinator  
  Phone #: 503.945.5688

  Fax #: 503.945.6969

Updated 9-05-14
COLLEGE FINANCIAL AID RESOURCES
FOR FORMER FOSTER YOUTH

Voice for Adoption (VFA) receives many requests from students and adoptive parents who are looking for resources for college scholarships and other financial aid resources. This list provides information about potential financial aid opportunities. Please note that the eligibility criterion varies. Some of the resources below pertain to adopted youth while others are targeted toward youth who emancipated from foster care.

1. **Fostering Adoption to Further Student Achievement Act (Public Law 110-84):** This law made it possible for teens in foster care to be adopted without losing access to college financial aid. Under this law, youth who are adopted from foster care at any point after their 13th birthday will not have to include their parents’ income in the calculation for determining their need for federal financial aid. The law revised the definition of “independent student” and the definition now extends to youth who were in foster care on or after their 13th birthday, even if they have subsequently been adopted (refer to question #52 on the FAFSA form. See the resource below on how to access FAFSA.). To learn more, visit: [http://voice-for-adoption.org/sites/default/files/FAFSA%20factsheet_updated2010.pdf](http://voice-for-adoption.org/sites/default/files/FAFSA%20factsheet_updated2010.pdf)

2. **Free Application for Federal Student Aid (FAFSA):** Federal Student Aid, a part of the U.S. Department of Education, is the largest provider of student financial aid in the nation. At the office of Federal Student Aid, employees help make college education possible for every dedicated mind by providing more than $150 billion in federal grants, loans, and work-study funds each year to more than 15 million students paying for college or career school. Federal Student Aid is responsible for managing the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965. These programs provide grants, loans, and work-study funds to students attending college or career school. To complete a FAFSA application visit: [http://www.fafsa.ed.gov/](http://www.fafsa.ed.gov/)

3. **Chafee Education Training Vouchers (ETV) - Fostering Connections to Success and Increasing Adoptions Act (Public Law 110-351):** This law extended eligibility for Education Training Vouchers (ETV) to youth who exit foster care to kinship guardianship at age 16 or older (these funds are also available to youth who are adopted at age 16 or older). ETV is an annual federal grant provided to states to provide funds to former foster youth who are enrolled in college, university and vocational training programs. Students may receive up to $5,000 each year based on cost of attendance and available funds. To learn more about ETV requirements and state information, visit: [https://www.statevoucher.org/index.shtml](https://www.statevoucher.org/index.shtml)

voiceforadoption@gmail.com | 202-210-8118 | www.voice-for-adoption.org
1220 L. St. NW, #100-344 Washington, D.C. 20005
4. **Fostering a Future Scholarship (specific to adopted youth from foster care):**
Children’s Action Network in partnership with the Dave Thomas Foundation for Adoption sponsors a national scholarship program designed to provide youth who were adopted from foster care at or after age 13 with financial assistance for post-secondary education and vocational programs. To review eligibility and application details visit:
http://www.childrensactionnetwork.org/scholarship.htm

5. **UMPS CARE Charities All-Star Scholarship for Adopted Youth:** U M P S C A R E Charities partnered with The Dave Thomas Foundation for Adoption (DTFA) and Slate XP to offer the U M P S C A R E Charities All-Star Scholarship. The U M P S C A R E Charities All-Star Scholarship is for children adopted from foster care, in order to help provide a college education to students who otherwise might not be able to afford one. U M P S C A R E Charities is a 501(c)(3) non-profit established by Major League Baseball (MLB). All-Star Scholarships are open to children adopted from U.S. foster care at the age of 12 years or older to provide increased opportunities for advanced education. Scholarship funding will provide for $5,000 scholarships for a two-year institution – OR – $10,000 scholarships for a four-year institution. To access the application visit: http://umpscare.com/AllStarScholarship.html

6. **Foster Care to Success:** The Foster Care to Success administers a variety of scholarships and grants to help former foster youth and adopted youth achieve a meaningful post-secondary education. Foster Care to Success also operates internship and mentoring programs; in addition to providing student care packages for young people who are eligible. Visit:
http://www.fc2success.org/ or email: scholarships@fc2success.org

7. **States with College Tuition Waivers for Former Foster Youth:** The National Resource Center for Youth Development lists specific in-state college tuition waivers that pertain to former foster youth. Click the following link and search on the right hand side of the web page for “states with tuition waivers” for varying state eligibility and requirements. Visit:
http://www.nracyjd.ou.edu/state-pages/search

8. **General Scholarship Search Engines:** Search for scholarships through a variety of websites, just make sure they are free to use. Create a free account with search engines such as Fastweb or Scholarships.com to find grants based on individual criteria and characteristics. The “scholarship matches” will point you to opportunities that you may qualify for through a database of millions of scholarships. Visit: http://www.fastweb.com/ or http://www.scholarships.com/
Special Note - Understanding Loans: Loans are not free money and are required to be paid back in full, sometimes with interest. There are typically two types of loans offered to students, subsidized and unsubsidized. Subsidized loans do not accrue interest while you are in school or during future deferment periods. While unsubsidized loans begin accruing interest from the time the loan is disbursed to the school. Students should never accept loans just because they are offered. Before agreeing to accept a loan students should discuss the need to take out loans with a representative at a school’s financial aid office or some other knowledgeable parent or supportive adult.

NATIONAL INTERNSHIPS TARGETED SPECIFICALLY FOR YOUTH WHO HAVE BEEN IN FOSTER CARE

1. FosterClub All-Star Internship Program: FosterClub, the national network for youth in foster care. The All-Star Internship program was launched in 2004 and successfully incorporated current and former foster youth as facilitators and leaders of teen conference activities. The All-Stars get training on how to turn their experiences in foster care into expertise, in order to positively influence peers in foster care, professionals and policy makers, on a variety of topics pertaining to child welfare. Selected individuals will spend a portion of their summer living in Oregon and traveling to various locations across the country to train and inspire others. This is a competitive internship program. Interns receive a weekly stipend and housing during their assignment. To learn more about eligibility criteria and the annual application deadline visit: http://www.fosterclub.com/_allstars/article/all-star-application-details

2. CCAI’s Foster Youth Internship (FYI) Program: The Congressional Coalition on Adoption Institute’s (CCAI) Foster Youth Internship (FYI) is a unique internship program that gives those who have spent time in the foster care system a chance for their voice to be heard on Capitol Hill. Selected interns spend two months in Washington, D.C. interning for a Member of Congress. Interns also spend time researching a topic of their choice to develop improved policy in a given child welfare related area. The recommendations are combined into a joint internship-class report that is presented to policymakers at the conclusion of the internship program. Past participants have gotten their recommendations incorporated into federal bills. This is a competitive internship program. Interns receive a weekly stipend and housing during their assignment. To learn more about eligibility criteria and the annual application deadline visit: http://www.ccainstitute.org/fyiapply.html

VFA does not specifically endorse any of the resources on this list. These resources were current at the time of publication on March 29, 2013. To access the resources above copy the links and paste them into an internet browser.
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<th><strong>Youth Transition Programs</strong></th>
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<tr>
<td>Human Services Bldg</td>
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| **Rosemary lavenditti**     | (503) 945-5688 | Rosemary.lavenditti@state.or.us |
|                            | Overall IL Program Information | Monday - Friday 8:00 – 5:00 |
|                            | Technical Assistance/ILP Training |  |
|                            | Contracts, Budget Management |  |
|                            | Oregon Foster Youth Connection liaison |  |

| **Carrie van Dijk**         | (503) 945-5807 | Carrie.Vandijk@state.or.us |
|                            | Technical Assistance and Training | Monday - Friday 8:00 – 5:00 |
|                            | ILP Website |  |
|                            | Oregon Foster Youth Connection Liaison |  |

| **Adrea Korthase**          | (503) 947-5354 | Adrea.Korthase@state.or.us |
|                            | Young Adult Programs |  |
|                            | Runaway & Homeless Youth (HRY) Program |  |
|                            | Credit Reports |  |

| **Camma McDonald**          | (503) 945-5620 | Camma.M.Mcdonald@state.or.us |
|                            | Credit Reports | Monday-Friday 8:00-5:00 |
|                            | RHY Support Staff |  |

| **Sandy Raschko**           | (503) 945-6612 | Sandra.Raschko@state.or.us |
|                            | Match Claims | Monday – Friday 8:00 – 4:30 |
|                            | Chafee Education and Training Grant Program |  |
|                            | Overall Fiscal Tracking |  |

| **Hayley Smith**            | (503) 945-6619 | Hayley.B.Smith@state.or.us |
|                            | Subsidy & Chafee Housing | Monday - Friday 7:30 – 4:00 |
|                            | Chafee Education and Training **Voucher** (ETV) Program |  |
|                            | ILP Discretionary Funds |  |

| **Luke Walls**              | (503) 945-5684 | Luke.Walls@state.or.us |
|                            | Client Referral & Discharge Profiles | Monday – Friday 9:00 – 5:30 |
|                            | Client Invoices |  |
|                            | ILP Discretionary Funds |  |
|                            | ILP Desk Mail/Resources/Training Materials |  |

http://www.dhs.state.or.us/caf/safety_model/procedure_manual/index.html

Independent Student
College Cost Reduction and Access Act

In general, here are provisions of the College Cost Reduction and Access Act, which Congress is about to pass and the President has already said he will sign. It's the budget reconciliation bill for FY 2008. Read on:

The definition of independent student does add emancipated minor and being in a legal guardianship to the definition of independent student, effective July 1, 2009. It also changes the orphan or ward of the court until age 18 to be orphan or ward of the court or in foster care at any time on or after 13 years of age. So starting July 1, 2009 we will no longer have the issue of confusion over what ward of the court really means -- Congress has resolved the issue by saying that all of the above qualify as independent.

Chapter 3

Juvenile Dependency and Termination of Parental Rights: Appellate Update 2015

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Salem, Oregon

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Salem, Oregon

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I. Asserting Jurisdiction


The parents had three children and lived in the paternal grandparents’ home. The father’s family is Chinese and Mien and, in their culture, grandparents and older relatives often act as primary caregivers to children. After the mother gave birth to her first child, A, the paternal grandparents were A’s primary caregivers, while the parents acted more like close relatives to A than as A’s parents. When the mother gave birth to her second child, E, the mother and E both tested positive for methamphetamine, although E was not “drug-affected.” As with A, the paternal grandparents were E’s primary caregivers when he came home from the hospital.

When the mother gave birth to her third child, H, H’s meconium tested positive for methamphetamine. The department removed H and placed her with the maternal grandfather. The department then filed dependency petitions on all three children alleging that the parents’ drug use, the parents’ failure to take individual responsibility for their children, and the parents’ decision to leave the children with the paternal grandparents for extended periods of time required the juvenile court to intervene to protect the children. In the meantime, the paternal grandparents violated a DHS safety plan by allowing parents’ to have contact with their children when the parents’ weren’t in the grandparents’ line-of-sight, and the paternal grandparents were indicted on drug charges.

At the jurisdictional trial, the department’s theory was that the parents were unfit because they used drugs and did not want to parent independently. The department theorized further that the parents reliance on the grandparents was not sufficient to avoid the court’s involvement because: (1) the grandparents’ indictment for drug activity increased the risk that the children would be exposed to other “criminals”; (2) the grandparents’ “drug activity” increased the risk that the family would be subject to armed robbery; (3) the paternal grandfather’s 10-year-old “founded disposition” for physical abuse exposed the children to a “risk of harm”; and (4) the grandparents’ violation of the department’s safety plan evinced a current threat of harm to the children. The juvenile court asserted jurisdiction over the children, and the parents appealed. Reasoning that a parent’s conduct of delegating caretaking of his or her child to another does not authorize dependency jurisdiction unless the substitute care-takers pose a current threat of harm to the children, the Court of Appeals reversed:

“Under ORS 419B.100(1)(c), a juvenile court may assert jurisdiction in a dependency case when a child’s “condition or circumstances are such as to endanger the welfare” of the child. A child is endangered if the child is exposed to conditions or circumstances that “present a current threat of serious loss or injury.” Dept. of Human Services v. C.J. T., 258 Or App 57, 61, 308 P3d 307 (2013). DHS has the burden to prove that the threat is current and nonspeculative; “it is not sufficient for the state to prove that the child’s welfare was endangered sometime in the past.” Dept. of Human Services v. M.Q., 253 Or App 776, 785, 292 P3d 616 (2012). Rather, “there must be a reasonable likelihood that the threat will be realized.” Dept. of Human Services v. A.F., 243 Or App 379, 386, 259 P.3d 957 (2011).
“The key inquiry in this case is “whether, under the totality of the circumstances, there is a reasonable likelihood of harm to the welfare” of the children. Dept. of Human Services v. C. Z., 236 Or App 436, 440, 236 P3d 791 (2010) (internal quotation marks omitted). DHS also has the burden of proving a connection between the allegedly risk-causing conduct and the harm to the children. C.J.T., 258 Or App at 62, 308 P3d 307. In this case, we reverse, because the record is insufficient to demonstrate that the children were endangered and that any risk of harm was current and nonspeculative.

“There is clearly sufficient evidence in the record that mother and father abuse drugs and lack basic parenting skills and an understanding of how to provide for their children's basic needs. If they were acting as the children's primary caregivers, DHS might well have proved a connection between the risk-causing conduct and harm to the children. However, in this case, because parents have entrusted the care of their children to the paternal grandparents, the question is whether— even assuming that DHS proved those parental deficits— the evidence in the record, as a whole, established that the totality of the children's circumstances or conditions exposed them to a current risk of serious loss or injury that was reasonably likely to be realized.

“DHS identified four pieces of evidence to demonstrate that the paternal grandparents' care of the children created a risk of harm to them: (1) the paternal grandparents' indictment for financial participation in a marijuana grow operation; (2) evidence that drug houses have a higher risk of robbery, which creates harm to the children; (3) the 10–year–old founded disposition of physical abuse by the paternal grandfather; and (4) the paternal grandparents' violation of the safety plan. We address each piece of evidence individually, and then together, to determine whether the totality of the circumstances establish a risk of harm to the children.

“First, an indictment for this type of conduct, without more, is not sufficient to show a current and nonspeculative risk of harm to the children. A DHS caseworker opined that, hypothetically, a person's engagement in criminal activity opens up “possible increased risks of other criminals, other unsafe people having contact with your children.” However, a search of the paternal grandparents' home did not reveal any evidence of criminal activity that would create a risk of harm to the children; rather, the only evidence presented was speculative. The detective testified that it “would be implied” that marijuana was transported to the grandparents' home, even though no marijuana was found during the search. The detective also testified that the firearms found during the search were legal and locked securely in a safe. Indeed, the detective was unable to articulate a specific harm to the children that was present in the paternal grandparents' home apart from the speculative harm from potential criminal activity. Moreover, the grandparents had an established backup plan to ensure that the children remained with familiar relative caregivers should the grandparents be convicted and incarcerated.
“Second, the evidence about the grandparents' home being at risk for robbery, likewise, was purely speculative. The detective testified that there is potential for “grow locations or stash locations” to be robbed and that such crimes often involve guns, even if not reported to police. However, no evidence of criminal activity was found in the home, and there was no evidence that the home was a grow or stash location. Thus, DHS failed to show a nexus between that circumstance and a risk of harm to the children.

“Third, DHS identified the paternal grandfather's 10-year-old founded disposition of physical abuse as evidence of a risk of harm to the children. However, DHS cited confidentiality concerns and refused to present evidence on the nature of the abuse in the founded disposition. In evaluating whether an offender presents a risk of harm to children, we require “some nexus between the nature of the offender's prior offense and a risk to the child at issue.” State ex rel. Dept. of Human Services v. N. S., 229 Or App 151, 158, 211 P3d 293 (2009). Here, there is insufficient evidence to demonstrate a nexus between the paternal grandfather's prior physical abuse and a current risk of harm to the children.

“Fourth, DHS identified the paternal grandparents' failure to act as appropriate safety plan supervisors as evidence of a current threat of harm to the children. However, one breach of the safety plan does not rise to the level of “current risk of harm” when the children were not endangered or “threatened with serious loss or injury.” A.F., 243 Or App at 386, 259 P3d 957. We also find it significant that the paternal grandparents freely revealed their conduct to DHS and that there is no other evidence that they otherwise failed to supervise the children.

“Considered in its totality, the evidence that DHS presented was insufficient to prove a reasonable likelihood of harm to the children, and DHS could not identify any harm caused to A and E in living with the paternal grandparents. Instead, the record demonstrates that they were well-adjusted and happy children before their removal and, indeed, that the greatest harm they suffered was from the removal itself.

“In addition, DHS's arguments rest on a mistaken assumption that parents cannot give custody of their children to people who are not DHS-certified. To the contrary, the court must have jurisdiction for DHS to change the placement of children and, for jurisdiction to be warranted, there must be a current threat of harm to the children. ORS 419B.100(1)(c). Because parents have entrusted the primary care of the children to the paternal grandparents, who do not pose a current threat of harm, the court did not have a basis for asserting jurisdiction over the children. See State ex rel. Dept. of Human Services v. Smith, 338 Or 58, 86, 106 P3d 627 (2005) (concluding that, where mother's family did not pose a threat to the child, that mother's inability to parent independently did not amount to a condition seriously detrimental to the child).”

The department petitioned the juvenile court to assert dependency jurisdiction over the father’s five children based, in part, on allegations that the father had sexually abused his oldest child, A, and other relatives. Thereafter, the father was convicted on multiple counts of sexual abuse and sentenced to 219 months of imprisonment. After the father’s convictions, the department filed an amended dependency petition, and the mother admitted to allegations relating to her need for assistance from the department to access services to address the sexual abuse issues in the family. The juvenile court accepted those admissions.

The father contested the department’s petition, and the matter proceeded to a jurisdictional trial “on allegations to the father only” five months after the court accepted the mother’s admissions. The mother was present at the trial, represented by counsel, and introduced on the record. The father and his attorney were present and introduced on the record, as were A and her attorney, and the remaining children, who were collectively represented by a fourth attorney. During the hearing, the father, A, and the other children presented evidence that the mother was actively involved in counseling and consistently made protective statements about her children, that the mother’s counselor and the children’s counselor recommended increased autonomy from the department and the juvenile court for the mother and the children, and that one counselor opined that continued court and department involvement would be impediment to the mother and the children’s recovery. The father and the children made arguments based on that evidence. The court asserted jurisdiction, stating in its judgment that the court had previously made findings about the mother. The father appealed.

Reasoning that the juvenile court was required to assess the children’s circumstances as they existed at the time of hearing and could not assume that mother’s circumstances had not changed in the time between she originally made her admissions and the hearing at issue, the Court of Appeals reversed:

“Under ORS 419B.100(1)(c), ‘the burden is on the state to show that harm is, in fact, present.’ C.Z., 236 Or App at 443, 236 P3d 791. The risk of harm must exist at the time of the hearing. Dept. of Human Services v. A.F., 243 Or App 379, 386, 259 P3d 957 (2011). ORS 419B.100(1)(c) ‘requires the court to consider all of the facts in the case before it and to consider whether, under the totality of the circumstances, the child’s welfare is endangered.’ Dept. of Human Services v. W.A.C., 263 Or App 382, 394, 328 P3d 769 (2014). ‘[I]f a child has a parent who appears in the proceeding and is capable of caring for the child safely, juvenile court jurisdiction is not warranted unless and until DHS prove[s] that neither parent who appeared could safely parent the child [.]’ Id.

“We begin by analyzing the court’s findings about mother’s capability to safely care for the children because that issue is dispositive. As mentioned, mother stipulated to allegations in December 2013, the court accepted those stipulations at that time, and, following the jurisdictional hearing in April 2014, the court again made findings about mother’s stipulations. Father argues that mother had ameliorated the conditions and circumstances identified in the
stipulations by the time of the hearing. Thus, because ORS 419B.100(1)(c) requires findings at the time of the hearing, the stipulations are insufficient to support jurisdiction. DHS's response is twofold. DHS argues that (1) the stipulations did not have to be made at the time of the hearing because the court had already established jurisdiction of the children “as to mother” when it accepted the stipulations in December 2013, and alternatively, (2) the judgment of jurisdiction incorporated mother's stipulations and therefore the findings were made at the time of the hearing.

“We first address DHS's argument that the court had jurisdiction of the children ‘as to mother’ prior to the jurisdictional hearing. As we have recently clarified, although the use of the shorthand phrases ‘jurisdiction as to mother’ or ‘jurisdiction as to father’ is common, the court does not take jurisdiction with regard to a mother or a father; rather, the court takes jurisdiction of a child. W.A.C., 263 Or App at 392, 328 P3d 769.

“In W.A.C., the mother stipulated to allegations contained in a petition, including allegations that the father had subjected the mother to domestic violence. Id. at 385–86, 328 P3d 769. The father did not stipulate to jurisdiction—in fact, he contested those allegations. Id. at 386, 328 P3d 769. The court set a future date to consider allegations against the father, but purported to take jurisdiction of the children at the time that it accepted the mother's stipulations. Id. The father argued that ‘the juvenile code contemplates a single judgment of jurisdiction, based on the totality of the conditions and circumstances of the child, not on a division of proof as to each parent.’ Id. at 391–92, 328 P3d 769 (emphasis in original). We agreed, holding that ‘a juvenile court cannot assert jurisdiction over a child based on the admissions of one parent when the other parent has been served and summoned, appears, and contests the allegations in the petition. In such a case, the juvenile court can only assume jurisdiction over the child after a contested hearing on the allegations denied by the other parent.’ Id. at 394, 328 P3d 769. Consequently, a court must make findings regarding contested allegations about both parents who before the court may take jurisdiction over the children. See id. (noting that DHS cannot ‘depriv[e] one parent of legal and physical custody of the child[ ] without a determination that that parent cannot safely parent the child’).

“Thus, in this case—where father was served, summoned, appeared, and contested jurisdiction—the court could not have taken jurisdiction over the children prior to the jurisdictional hearing on the contested allegations. Id. at 394, 328 P3d 769. Consequently, we reject DHS's argument that the court had jurisdiction of the children at the time of mother's stipulations.

“As noted, the court stated in the jurisdictional judgment, ‘Referee Hughes found the children within the jurisdiction as to Mother on 12/17/13. This finding was not challenged by any party.’ However, like the father in W.A.C., father, A, and the children contested mother's stipulations. A's lawyer presented evidence
that mother was actively involved in counseling and consistently made protective statements about her children, that all counselors recommended increased autonomy from DHS, and that one counselor opined that continued court and DHS involvement would be an impediment to mother and the children's recovery. In their closing arguments, father and the children made arguments based on that evidence.

“That evidence directly challenges mother’s stipulations—made several months before the jurisdictional hearing in the wake of father’s recent sexual abuse convictions—that mother needed the assistance of DHS to ‘access services specifically designed to address sex abuse in the family, * * * to learn to protect all her children from sexual abuse, * * * to meet [A]’s emotional needs, and learn to protect her from family emotional and physical pressure regarding the child’s disclosure of sexual abuse.’ Yet, the court found that no party challenged mother’s stipulations. We hold that there is no evidence to support that finding, because, in fact, the parties did challenge mother’s stipulations.

Turning to DHS’s second argument—that the April 2014 jurisdictional judgment incorporated the court’s December 2013 findings about mother—we agree that a court may make findings about one parent and then proceed to make findings about the other parent before finally taking jurisdiction based on that totality of evidence. However, the conditions and circumstances that give rise to jurisdiction must exist at the time of the hearing. A.F., 243 Or App at 386, 259 P3d 957. Here, A presented evidence that the conditions and circumstances identified in mother’s stipulations did not exit at the time of the hearing. Yet, the court’s April 2014 findings about mother merely state that the court had made prior findings about mother and deny that those findings were challenged. However, those findings were challenged. Accordingly, the court erred in finding that no party had challenged mother’s stipulations. Consequently, we vacate and remand for the court to determine whether, in light of the totality of the evidence presented by the parties, there exists a basis for jurisdiction.”

Dept. of Human Services v. M.D., 266 Or App 789, ___ P3d ___ (2014) (Jackson County; Patricia Crain, Judge).

The mother of an Indian Child for purposes of the Indian Child Welfare Act (ICWA) suffered from anxiety, depressive disorder, paranoia delusional disorder, schizophrenia, schizophrenia form disorder, and “possible paranoid schizophrenia.” When the child one day old was less than one day old, the department removed the child from the mother’s care. The department then petitioned the juvenile court to assert dependency jurisdiction over the child, alleging that the mother’s “chronic mental health problems interfere with her ability to safely parent the child.”

Over the course of the next four months, the department’s caseworker met with the mother several times to discuss the department’s conditions for returning the child and offered visitation. The caseworker also proposed that the mother submit to a neuropsychological evaluation, to which the mother agreed. The second psychologist that the caseworker contacted
recommended that the mother first submit to a psychological evaluation to determine whether a neuropsychological evaluation would be appropriate. The caseworker scheduled a psychological evaluation with that psychologist for the first available date, which was one month after the date scheduled for the jurisdictional trial. The caseworker did not inquire whether any other psychologist could conduct an earlier evaluation. The caseworker independently decided not to make any referrals for services until the psychological evaluation was complete.

After a hearing on the petition, the juvenile court asserted jurisdiction over the child. Among other things, the court concluded that “active efforts had been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proven unsuccessful.” The mother appealed arguing that, as the department had decided that the psychological evaluation was pre-requisite to other reunification services, its failure to provide that service in the four months between the filing of the petition and the hearing at issue rendered its efforts not active as a matter of law. The Court of Appeals disagreed:

“Mother objects to the juvenile court's determination that DHS had made active efforts. She argues that scheduling the psychological evaluation almost five months after child's removal does not constitute active efforts. She contends that DHS failed to provide any services to assist in ameliorating her mental health issues— the basis for DHS's intervention— and that DHS should have scheduled an appointment with a psychologist who could have seen mother sooner, assisted mother in accessing psychiatric medical management services, and consulted with mother's mental health provider. Mother further argues that 'providing mother with mental health services was required to eliminate the need for [child's] removal and effect her quick and safe reunification with mother, just as ICWA contemplates.

"ORS 419B.340(1) provides that, '[i]f the court awards custody to [DHS], the court shall include in the disposition order a determination whether [DHS] has made reasonable efforts, or if the [ICWA ] applies, active efforts *** to make it possible for the ward to safely return home. ' The court considers 'the ward's health and safety the paramount concerns' in making its determination, id., and is required to 'enter a brief description of what preventive and reunification efforts were made and why further efforts could or could not have prevented or shortened the separation of the family' to support its active efforts determination. ORS 419B.340(2). When an Indian child is involved, DHS must show that 'active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proven unsuccessful.' ORS 419B.340(7). 'Active efforts' is a higher standard than reasonable efforts; the standard obligates DHS to do more than 'creat[e] a reunification plan and requir[e] the client to execute it independently.' State ex rel. Juv. Dept. v. T.N., 226 Or App 121, 124, 203 P.3d 262, rev den., 346 Or 257, 210 P3d 905 (2009). Rather, the agency must ‘assist the client through the steps of a reunification.’ Id. ‘The type and sufficiency of effort that DHS is required to make depends on the particular circumstances of the case.' Dept. of Human Services v. D.L.H., 251 Or App 787, 799, 284 P3d 1233 (2012). In determining
whether efforts were active, a court considers ‘whether a parent is likely to benefit from a service’ in light of the nature of the parent’s problems. Dept. of Human Services v. M.K., 257 Or App 409, 416, 306 P3d 763 (2013).

“In this case, DHS did more than ‘create a reunification plan and require the client to execute it independently.’ DHS consulted psychologists and scheduled appointments, planned visits, issued gas vouchers, actively searched for relative placements, and worked with the Cherokee tribe to enroll child. Although mother insists that DHS should have called other psychologists to schedule an earlier psychological evaluation, we do not find that five-month period inherently unreasonable under these circumstances, particularly given that the record supports the inference that an earlier assessment would not have ameliorated mother’s condition to a degree sufficient to enable child’s return. Because we consider DHS’s efforts in light of the unique circumstances of a particular case, including whether mother is able to benefit from services and mother’s particular problems, we conclude that the evidence in the record was legally sufficient to support the court’s determination that DHS made the required active efforts.”


The department first became involved with the parents and their two children in August 2012 after receiving information that a “domestic violence incident” had occurred between the parents while one of the children was home. Father was arrested and charged in connection with that incident.

In October 2012, the mother admitted to the department’s allegations that, among other things, (1) she “was subjected to domestic violence by the father” and was “unable to protect the child[ren] from exposure to father’s domestic violence without DHS intervention”; and (2) she had “mental health issues [which[,] if left untreated[,] [a]ffects her ability to parent child[ren].” The juvenile court entered a judgment asserting jurisdiction over the children, awarding legal custody of the child to the department, and placing the child in the mother’s physical custody. The department encouraged the mother to move with the children to Texas, and in November 2012, the mother did so.

Between October 2012 and March 2013, the father was acquitted of the criminal charges associated with the August 2012 incident. In the meantime, the Texas Child Protective Services (CPS) removed the children from the mother’s care and placed them with the maternal grandmother, who also lived in Texas. In March 2013, the juvenile court held a hearing on the allegations against the father, viz, (1) that the father had a pattern of domestic violence against his current partner and others with whom he has had a relationship, at least some of which occurred in front of one or both children; and (2) that the father was aware of the mother’s mental health issues and had failed to protect the children from the mother.

The juvenile court concluded that the department failed to prove that the father had a pattern of domestic violence against the mother and other partners and that the children were exposed to domestic violence by the father. The juvenile court then entered a judgment asserting
jurisdiction over the children based on the allegations to which the mother had previously admitted (the father’s domestic violence against her and the mother’s mental health issues) and the allegation that the father had failed to protect the children from mother. The judgment also included the juvenile court’s conclusion that the department failed to prove that the father had a pattern of domestic violence against partners or that the children had been exposed to domestic violence by the father.

The father moved to set aside the 2012 jurisdictional judgment that was based on the mother’s admissions and moved for an order that the children be placed with him. The juvenile court denied his motion to set aside the 2012 judgment but ordered that the department return the children to the father. The father appealed from both the March 2013 jurisdictional judgment and from the order denying his motion to set aside the 2012 jurisdictional judgment.

The Court of Appeals reversed the order denying the father’s motion to set aside the 2012 jurisdictional judgment, reasoning that the juvenile court lacked authority to assert jurisdiction over a child based on one parent’s admissions when the other parent objects, because the juvenile code only authorizes jurisdiction over a child whose conditions or circumstances endanger their welfare. Accordingly, the juvenile court must “consider all of the facts presented in the case before it.” (emphasis in original).

“We hold that a juvenile court cannot assert jurisdiction over a child based on the admissions of one parent when the other parent has been served and summoned, appears, and contests the allegations in the petition. In such a case, the juvenile court can only assume jurisdiction over the child after a contested hearing on the allegations denied by the other parent. If it were otherwise, a juvenile court could assert jurisdiction over a child and make the child a ward of the court, depriving one parent of legal and physical custody of the child, without a determination that that parent cannot safely parent the child.”

As for the father’s appeal from the 2013 jurisdictional judgment, the Court of Appeals concluded that the juvenile court erroneously asserted jurisdiction based on the mother’s admission that father had engaged in domestic violence toward her. The court held that although a parent’s admission may be used as evidence, “the juvenile court could not rely on one parent’s admission to conclusively establish an allegation regarding the contesting adverse parent’s conduct.”


Mother appealed a judgment in which the juvenile court found several additional bases for jurisdiction over the child, H. Those allegations included that mother (1) failed to provide adequate care and supervision; (2) engaged in a pattern of discipline, physical aggression and verbal abuse; (3) failed to protect H from inappropriate discipline (use of an airsoft gun) by stepfather; (4) engaged in domestic violence with step father; (5) failed to obtain appropriate medical treatment for H’s sibling; and (6) was aware that stepfather, with whom mother was still in a relationship, had sexually abused H.
The Court of Appeals determined that sufficient evidence established the all but one of the additional bases, but the court considered whether the conditions were current. Mother argued that, because H was in foster care—as a result of the earlier adjudicated allegations—he was no longer “currently at risk of serious harm or loss.” The court rejected that argument: “It having been determined that mother endangered H’s welfare, mother cannot here be permitted to rely on that fact in an effort to prevent DHS from establishing that H’s welfare was endangered for additional reasons.”

Nonetheless, the court reversed because it determined that there no evidence that stepfather had physically disciplined H and that, therefore, there was no evidence that mother failed to protect H from that discipline.

**Dept. of Human Services v. I.S., 261 Or App 731, 324 P3d 486 (2014) (Klamath County; Roxanne B. Osborne, Judge).**

The mother and the father had two children together, who were ages 12 and 13 at the time of the jurisdictional trial. The parents had not lived together for a number of years. The father lived and worked out of state and would periodically return to Oregon to visit the children. Accordingly, the children lived primarily with the mother except that, for at least two years, they had lived with the father in Nevada. The parents had no formal agreement or judgment governing their custody of the children.

The mother had a history of substance abuse, with periods of sobriety followed by relapse. The father had twice removed the children from the mother’s custody, once when she had relapsed and “more of less just kind of left” and again when he thought that the mother’s boyfriend was “not okay.” During the father’s most recent visit in Oregon, he met with a department employee to discuss his “concerns” about the mother’s recent behavior and expressed an interest in obtaining custody of the children. By the time he returned to Nevada, he believed that the mother was “clean,” and he allowed the children to remain with the mother.

A few months later, the mother relapsed. The department removed the children and placed them in substitute care. Thereafter, the father moved to Oregon, where he began seeking employment and a residence where he could live with the children. The father did not seek legal custody because the mother “didn’t put up much of a fight” when he had taken custody of the children from her twice in the past.

After a trial, the juvenile court asserted jurisdiction over the father’s two children, as to the father, on the sole basis that he was “aware that the mother *** cannot safely parent the children due to issues of substance abuse and neglect and has done nothing to assert custody of his children.”

The father appealed, arguing that the department had failed to prove that his lack of a custody order presented a cognizable risk of harm. The Court of Appeals agreed and reversed:

“The record indicates that mother does not have legal custody of the children, and therefore she would not be able to use legal custody to remove the children from father’s physical custody. There was no evidence that mother had, in the past, ever tried to physically prevent father from taking physical custody or attempted
to remove the children from father’s care. On the contrary, father testified that he and mother had never had any issues when it came to custody decisions, and that he was not concerned that mother would interfere in the future. Indeed, the most that the record establishes is that, although mother did not like having to cede physical custody of the children to father in the past, she had not actively contested his custody. Therefore, the state’s conclusory ‘risk of harm’ argument that ‘father would be unable to prevent mother from removing the children from his care’ without a custody order is not supported by evidence in the record. For the same reasons, DHS failed to prove a reasonable likelihood of harm to the children at the time of the hearing based on father’s lack of understanding that such an order was important, which was the express basis of the juvenile court’s ruling.

“In the absence of evidence that father will not be able to protect the children from mother without a custody order, the requirements under ORS 419B.100(1)(c) to establish jurisdiction over the children for father’s lack of a custody order are not satisfied, and there was insufficient evidence to support the juvenile court's assertion of jurisdiction on that basis. Dept. of Human Services v. R.L.F., 260 Or App 166, 172, 316 P3d 424 (2013); State v. A.L.M., 232 Or App 13, 16, 220 P3d 449 (2009). Accordingly, we reverse.”

261 Or App at 739.

**Dept. of Human Services v. N.B., 261 Or App 466, 323 P3d 479 (2014) (Clackamas County; Jeffrey S. Jones, Judge).**

The juvenile court took jurisdiction over mother’s five children based, in part, on allegations that mother medically abused her children. Three of mother’s children were already wards of the court based on a June 2010 finding that mother’s mental health interfered with her ability to safely parent. A fourth child, D, was living with his father at that time. In July 2012, after mother had participated in a significant amount of counseling, DHS returned two of the children to her care. Around that time, D moved into mother’s home, and mother gave birth to her fifth child, L.

When L failed to thrive, L’s physician referred her to a child abuse specialist. That specialist diagnosed L as suffering from medical child abuse, a condition in which “a parent or care taker fabricates or makes up symptoms or produces symptoms in a child that get the child unnecessary medical care.” N.B., 261 Or App at 469-70. The specialist opined that, in addition to L, each of mother’s four other children had been the victims of medical child abuse by mother.

On appeal, mother challenged the sufficiency of the evidence that her actions and conditions endangered any of her children. She noted that L had gained significant weight, that the visits with the children went well, and that she was successfully managing her mental health issues. She also disputed the diagnoses of medical child abuse.

The Court of Appeals affirmed, noting that the standard of review required the court to review the evidence in the light most favorable to the trial court’s disposition. Id. at 472. The
court held that, despite mother’s recent improvement, the record contained evidence of a history of medical abuse of “each of the older children by repeatedly reporting or causing medical symptoms in order to obtain medical intervention, including two incidents in which medical experts believed that mother had attempted to suffocate one of the children, J, during a period of hospitalization.” Id. The court concluded that legally sufficient evidence supported the diagnoses and the finding that the children remained at risk of harm.

Dept. of Human Services v. A.B., 264 Or App 410, 333 P3d 335 (2014) (Multnomah County; Beth A. Allen, Judge).

The juvenile court asserted jurisdiction over the parents’ children based upon (1) the mother’s substance abuse, (2) the mother’s failure to provide for the children’s medical, dental, and educational needs, (3) the mother’s failure to provide preventative dental care, (4) the father’s failure to protect the children from the mother’s neglect, and because (5) the father needed the assistance of DHS while he attempted to gain custody. The mother appealed arguing, inter alia, that the single urinalysis result which revealed methamphetamine was not sufficient to establish that she suffered from a substance abuse problem, much less that her purported substance abuse endangered her children in any regard. The Court of Appeals agreed:

“Mother asserts that the evidence does not support the juvenile court’s finding that DHS has established the allegation of substance abuse. Mother notes that, apart from one positive urinalysis in May 2013, all of mother’s urinalysis have been clean and, after a drug and alcohol assessment, mother was not referred for substance abuse treatment. Mother contends, further, that, even if the record does support a finding of substance abuse, there is no evidence that that conduct exposes the children to harm.

“We agree with mother that the allegation of substance abuse was not established. Shortly after the removal of the children in May 2013, mother had the single urinalysis that was positive for methamphetamine but every urinalysis after that was negative. There is no evidence in support of a determination that mother had a substance abuse problem at the time of the jurisdictional hearing in September 2013. See Dept. of Human Services v. E.M., 264 Or App 76, 82, 331 P3d 1054, 1057 * * *(2014) (DHS failed to prove that ‘mother had a substance abuse problem at the time of the jurisdictional hearing’); Dept. of Human Services v. R.L.F., 260 Or App 166, 173, 316 P3d 424 (2013) (DHS failed to prove that the father currently used alcohol, or that his use exposed the child to a threat of harm, at the time of the jurisdictional hearing); M.Q., 253 Or App at 787, 292 P3d 616 (evidence of a history of methamphetamine use does not support an inference of current use; jurisdiction cannot be based on speculation that parent’s past problems persist at the time of the jurisdictional hearing in the absence of evidence that the risk, in fact, remains). Accordingly, the substance abuse allegation does not provide a basis for the court’s jurisdiction.”

264 Or App at 416-17.
Dept of Human Services v. E.M., 264 Or App 76, 331 P3d 1054 (2014) (Lane County; R. Curtis Conover, Judge).

Prior to giving birth to her child, E, the mother tested positive for amphetamine and tetrahydrocannabinol. 264 Or App at 79. Mother then gave birth to E prematurely, but there was no evidence that mother’s drug use caused the premature birth. Id. E did not have any controlled substances in her system at birth but, because of her early birth, was required to remain in Neonatal Intensive Care for five weeks. Id. The department was concerned about E’s safety because of the father’s status as a sex offender and its belief that both parents suffered from a substance abuse problem. Id. Mother agreed to have no contact with father and to submit to a drug and alcohol screen, including submitting to two UAs. Id. at 80. The results of both UAs were negative for controlled substances and mother asked the caseworker for “permission” to move to Alaska with E’s great-grandmother. Id. The caseworker told mother that she could not move and that she would be filing a petition to make E a ward of the juvenile court. Id. The mother moved to Alaska with E and the great-grandmother. Id. In response, the department filed a dependency petition alleging that E was within the court’s jurisdiction because of, inter alia, parents’ substance abuse and father’s status as a sex offender. Id. After mother and E returned to Oregon pursuant to a “pickup warrant,” the juvenile court asserted jurisdiction. Mother appealed arguing that the court’s jurisdiction was not warranted because the department had failed to prove that she suffered from a substance problem. The Court of Appeals agreed:

“Under ORS 419B.100(1)(c), jurisdiction is proper when a child’s ‘conditions or circumstances are such as to endanger the welfare’ of the child. A child’s welfare is endangered if the child is exposed ‘to conditions or circumstances that present a current threat of serious loss or injury.’ Dept. of Human Services v. C.J.T., 258 Or App 57, 61, 308 P3d 307 (2013). The key inquiry in determining whether conditions or circumstances warrant jurisdiction is whether, under the totality of the circumstances, there is a reasonable likelihood of harm to the welfare of the child.’ Dept. of Human Services v. C.Z., 236 Or App 436, 440, 236 P3d 791 (2010)(internal quotation marks omitted). Further, DHS has the burden to establish a nexus between the allegedly risk-causing conduct or circumstances and risk of harm to the child, and that the risk of harm is present at the time of the hearing and not merely speculative. Dept. of Human Services v. M.Q., 2530r A pp 776, 785, 292 P3d 616 (2012).

“Accordingly, in this case, where jurisdiction is based solely on mother’s substance abuse, DHS must demonstrate a nexus between her substance abuse and a risk of harm to E that was present at the time of the jurisdictional hearing. Mother complains on appeal that DHS failed to prove any ‘current substance abuse’ by her, ‘let alone any nexus between mother’s substance abuse and a risk of harm to [E].’ In particular, mother contends that there is no evidence that she used any illegal substances after E’s birth and no evidence that E was affected by mother’s prior drug use.

“DHS counters that it was permissible for the court to infer that mother and father were not credible when they denied drug use at the time of the jurisdictional hearing. DHS further contends that, given E’s young age and the
fact that mother violated a DHS safety plan, the juvenile court did not err in concluding that E’s conditions and circumstances endangered her welfare. To support those contentions, DHS points to a combination of the following evidence: (1) mother has a history of drug use, including two positive tests shortly before E’s birth; (2) mother and father ‘remain a couple’; (3) father had a history of drug use and a positive UA for methamphetamine after E’s birth; (4) mother denied any current drug use and testified that she believed that father was not currently using drugs.

“Ultimately, we agree with mother that the record was legally insufficient to support the court’s determination that E was reasonably likely to suffer serious harm in the absence of asserting jurisdiction. In many ways, this case presents issues similar to those in M.Q., 253 Or App 776, 292 P3d 616. There we addressed whether the record supported a determination that the father was not credible, e.g., inconsistent testimony and excuses for missing a UA, the court’s ‘apparent disbelief of father’s claimed sobriety is not affirmative evidence that he still was using drugs at the time of the [jurisdictional] hearing.’ Id. at 786, 292 P3d 616.

“Next, we evaluated whether the evidence from which the court could have found that the father lacked credibility could itself support an inference that the father continued to use drugs. Id. at 786-87, 292 P3d 616. We concluded that it could not. We noted that the father had voluntarily agreed to submit a UAs and that DHS had requested only one UA by the time of the jurisdictional hearing. Although the father missed that UA, ‘this case does not involve the kind of pattern of missed court-ordered UAs from which a factfinder reasonably could infer that a person was attempting to hide his or her drug use.’ Id. at 787, 292 P3d 616. The father had also been visiting his child weekly for months and had never been observed in a drug-altered state. Id. We concluded that the record contained no evidence to support an inference that the father was using drugs at the time the court asserted jurisdiction, and noted that, ‘[j]urisdiction cannot be based on speculation that a parent’s past problems persist at the time of the jurisdictional hearing in the absence of any evidence that the risk, in fact, remains.’ Id.

“We reach similar conclusions in this case. The record lacks evidence that mother had a substance problem at the time of the hearing. DHS contends that mother’s denial of current substance abuse lacked credibility, citing, among other things, her denial of the use of amphetamines despite a positive test in February 2013. We agree that evidence in the record would support a determination that mother is not credible but, as we stated in M.Q., ‘the juvenile court’s apparent disbelief of [mother’s] claimed sobriety is not affirmative evidence that [she] still was using drugs at the time of the [jurisdictional] hearing. Further, evidence that would support the court’s determination that mother lacked credibility would not itself allow a reasonable factfinder to infer that mother continued to use drugs in August 2013. The only evidence of mother’s drug use was a positive test for amphetamine and THC in February 2013—six months before the jurisdictional hearing—and a positive test for THC in April 2013. M other provided two
voluntary UAs after E’s birth in April, both of which were negative for any illegal drugs, and she missed one voluntary UA requested by DHS in May. As in M.Q., there was no pattern of missed court-ordered UAs ‘from which a factfinder could infer that [mother] was attempting to hide * * * her drug use.’ Moreover, mother had provided two clean UAs since E had been born, and DHS did not introduce any other evidence that would support an inference that mother was using drugs at the time of the jurisdictional hearing.

“In addition, DHS did not introduce any evidence specific to mother that suggested that any drug use by mother put E at a nonspeculative threat of serious loss or injury. We have recognized on several occasions that a parent’s substance abuse alone does not create a risk of harm to a child. The juvenile court did not explicitly find that mother’s substance abuse had endangered or would likely endanger E, and there is no evidence in the record that would support an implicit factual conclusion to that effect. See Dept. of Human Services v. R.L.F., 260 Or App 166, 172-173, 316 P3d 424 (2013).

“* * * * *

“Given our conclusion that DHS presented insufficient evidence that mother had a substance abuse problem at the time of the jurisdictional hearing, and that there was no evidence that any drug use by mother put E at a nonspeculative risk of serious loss or injury, we must determine the appropriate disposition of this case. As noted, the court asserted jurisdiction over E based on its determination that both father’s and mother’s substance abuse interfered with their ability to safely parent E. In M.Q., 253 Or App at 788, 292 P3d 616, which also involved a situation in which we concluded that DHS had failed to prove an allegation as to one parent and the other parent had not appealed the jurisdictional judgment, we reversed the jurisdictional judgment “only as to” one parent, and otherwise affirmed. See also Dept. of Human Services v. J.H., 248 Or App 118, 119, 273 P3d 203 (2012).

“We conclude that reversal of a jurisdictional judgment “only as to” one parent is inconsistent with the nature of the jurisdictional judgment in this case. See Dept. of Human Services v. W.A.C., 263 Or App 382, 392, 328 P3d 769 (2014). In W.A.C., we concluded that it was error for the juvenile court to assert jurisdiction over a child when the mother had admitted allegations in the dependency petition, but the father had not, and the court had set a contested hearing to consider the allegations against the father. We noted that it was error for the court to assert jurisdiction before adjudicating the allegations against the father because ‘if a child has a parent who appears in the proceeding and is capable of caring for the child safely, juvenile court jurisdiction is not warranted and that, unless and until DHS proved that neither parent who appeared could safely parent the child, the court could not enter a jurisdictional judgment.’ Id. at 394, 328 P3d 769. We also explained that the juvenile court erroneously attempted to enter a jurisdictional judgment that the juvenile court viewed as only applying to the mother and having nothing to do with jurisdiction regarding the
father. We rejected that notion, indicating that a jurisdictional judgment brings the child within the court’s jurisdiction, ‘which is appropriate only after a determination that, under the totality of the children’s circumstances, their welfare is endangered.’ Id. at 395, 328 P3d 769.

Those principles squarely apply to the situation in this case. As noted, given our conclusion that the dependency allegations as to mother’s substance abuse were not sufficiently established, the only remaining basis for jurisdiction is that father’s substance abuse interferes with his ability to safely parent E. Accordingly, the record reflects one fit parent and one parent with a substance abuse problem that interferes with his ability to safely parent. Of particular note, there is no established link between the proven and unchallenged allegation as to father, and mother’s ability to parent safely (e.g., that mother was unable or unwilling to protect E from risks of harm relating to father’s substance abuse).

“A ccordingly, because ORS 419B.100(1)(c) requires the juvenile court to focus ‘on the child’s conditions and circumstances at the time of the hearing and whether the totality of those circumstances demonstrate a reasonable likelihood of harm to the welfare of the child[,]’ Dept. of Human Services v. C.F., 258 Or App 50, 54, 308 P3d 344, rev den, 354 Or 386 (2013), we conclude that the juvenile court erred in asserting jurisdiction over E because the evidence was legally insufficient to demonstrate that, under the totality of the circumstances, there was a current risk of nonspeculative harm to E.”

264 Or App at 81-85.


The juvenile court asserted jurisdiction over the parents’ two-year-old child because of the mother’s substance abuse and because the father did not have an order granting him sole legal custody. The parents appealed. In the meantime, the father obtained an order granting him sole legal custody and the juvenile court terminated the child’s wardship. Concluding that the juvenile court’s order terminating the wardship rendered the parents’ appeal from the jurisdictional judgment moot, the Court of Appeals dismissed parents’ appeal.

Dept. of Human Services v. H.H., 266 Or App196, ___P3d___ (2014) (Multnomah County; Katherine E. Tennyson, Judge).

The parents’ infant child suffered a broken leg, and thereafter, bilateral subdural hematomas and “significant bilateral retinal hemorrhages.” DHS petitioned the court to assert jurisdiction over both of the parents’ children and, at the hearing, DHS’s experts testified that the infant’s injuries were nonaccidental and were the result of abuse by father. The parents’ expert testified that “it was ‘probably greater than 90 percent likely’ that the cause of [the infant’s] hemorrhages was abusive head trauma.” ___Or App at ___ (slip op at 4). Concluding that father had abused the infant and that mother was unable to protect the children from father, the juvenile court asserted jurisdiction over both children. The parents appealed, arguing, inter alia, that their
trial attorneys had provided inadequate assistance because they had failed to call an expert to challenge the validity of DHS’s expert’s conclusions of child abuse. The Court of Appeals affirmed, explicitly reserving for parents the right to raise their claims of inadequate assistance in an ORS 419B.923(1) motion to the juvenile court:

“Finally, in the alternative to their arguments challenging the merits of the juvenile court’s decision, parents also assert that their lawyers below rendered inadequate assistance of counsel by not calling a particular expert witness - -Dr. Barnes-- to testify at the jurisdictional trial. Parents request that we remand the case to the juvenile court to permit them to further develop that claim. See Geist, 310 Or At 192 n 16. In support of that claim, parents have submitted extra-record material consisting of declarations from each parent averring that they wanted Barnes to testify at their trial; a declaration from a lawyer who has expertise handling cases involving infants with injuries that resemble those suffered by H stating that , in her opinion, Barnes’s testimony would be helpful; and a letter to father’s lawyer from Barnes summarizing Barnes’s recommendations - -following a review of ‘available’ record associated with H - - regarding possible avenues of investigation as to the causes of H’s injuries. DHS opposes parents’ request for a remand, contending that (1) statutory amendments have supplanted any authority that we had under Geist to remand a case for development of a claim of inadequate assistance of counsel; (2) the statutory right to adequate counsel established by Geist does not apply where, as here, parents have retained their own lawyers; (3) the procedure contemplated by Geist applies only if parental rights are terminated and does not apply at the jurisdictional stage of a juvenile case; and (4) parents have not shown that their lawyers performed inadequately by not calling Barnes.

“We assume without deciding that the statutory amendments identified by the state have not foreclosed our discretion to remand a case for evidentiary development of a claim of inadequate assistance of counsel in the manner contemplated by Geist. We also assume without deciding that the right to the adequate assistance of counsel applies even where a parent’s lawyer is retained and that it applies at all stages of a juvenile case, including the jurisdictional stage. We nonetheless decline to exercise our discretion to remand the case here.

“In Geist, the Supreme Court cautioned that a court should authorize an evidentiary hearing on a claim that counsel was inadequate for failing to call a particular witness in a juvenile case ‘if ever, only when a parent raises a substantial question’ concerning the issue. Id. (emphasis in original). The court further explained what a parent would have to show to raise a ‘substantial question’ that would warrant an evidentiary hearing:

‘Before authorizing an evidentiary hearing, a court doubtless would require a threshold showing of specific allegations, including the names of witness to be called, the expected substance of their testimony, and an explanation of how that testimony would show that their trial counsel was inadequate.”
“Here, parents’ extra-record submissions to us do not reveal what the expected substance of Barnes’s testimony at trial would have been; those submissions show only that Barnes had conducted a preliminary evaluation of the case, that Barnes concluded that the images that he had reviewed were not specific to nonaccidental trauma and that there were other potential causes of H’s injuries, and that Barnes recommended that those other potential cause be further evaluated by clinical experts. Absent a clearer picture of what, exactly, Barnes testimony would have contributed to the trial-including a clearer picture of what Barnes would have said if asked to opine on the likelihood that H’s injuries resulted from abuse-we are not persuaded that there is a ‘substantial question” as to whether parents’ lawyers performed inadequately by not calling Barnes. Accordingly, we deny parent’s request to remand the case for an evidentiary hearing on their claim of inadequate assistance of counsel. Our denial of parents’ request is without prejudice to parent’s ability to renew the request in the juvenile court.”

II. Continuing Jurisdiction

Dept. of Human Services v. L.C., 267 Or App 731, ___ P3d ___ (2014) (Hood River County; John A. Wolf, Judge).

The juvenile court asserted dependency jurisdiction over the parents’ three young children based on the father’s domestic violence and the family’s homelessness. The father was later convicted for his conduct and placed on probation, the terms of which required him to complete domestic violence treatment and prohibited him from having any unauthorized contact with the mother and the children. After the court asserted jurisdiction, the mother and the children moved into a domestic violence shelter, during which time the mother participated in a support group for victims of domestic violence and also engaged in some individual counseling. Several months later, the mother and the children moved into their own home.

At a review hearing shortly thereafter, the mother moved the court to dismiss jurisdiction and terminate the wardship. The parents acknowledged that they would like to have contact with one another and that they planned to remain married and reunite as a family if and when allowed to do so by the terms of the father’s probation. Although it was undisputed that the mother demonstrated strong parenting skills and that the children were happy and healthy in her care; the department opposed dismissal and urged the court that continued jurisdiction was necessary to “for a considerable period of time” to monitor the family. The juvenile court ruled to continue jurisdiction. The mother appealed arguing that the department had failed to prove that jurisdiction continued to be warranted. The Court of Appeals agreed:

“Whether jurisdiction is authorized by ORS 419B. 100(l)(c) depends on whether, under the totality of the circumstances, the child's welfare is endangered. DHS v. C. Z., 236 Or App 436, 440, 236 P3d 791 (2010). ‘The requirement that the child be endangered is significant; the child must be exposed to ‘danger,’ that is, conditions or circumstances that involve ‘being threatened with serious loss or
injury.’ Dept. of Human Services v. M. Q., 253 Or App 776, 785, 292 P3d 616 (2012) (quoting). ‘Moreover, that threat must be current; it is not sufficient for the state to prove that the child's welfare was endangered sometime in the past.’ M. Q., 253 Or App at 785, 292 P3d 616 (internal quotation marks omitted). ‘The threat of serious harm to the child also cannot be speculative. Rather, there must be a reasonable likelihood that the threat will be realized.’ Id. (internal quotation marks omitted). Thus, in order for a juvenile court to take jurisdiction over a child pursuant to ORS 419B. 100(1)(c), the child's condition or circumstances must give rise to a current threat of serious loss or injury that is reasonably likely to be realized.

“Juvenile court jurisdiction over a child ‘cannot continue if the jurisdictional facts on which it is based have ceased to exist.’ State ex rel Juv. Dept. v. Gates, 96 Or App 365, 372, 774 P2d 484, rev den, 308 Or 315, 779 P2d 618 (1989). When, as in this case, a parent moves to dismiss the juvenile court's jurisdiction at a review hearing, DHS bears the burden of proving that continued jurisdiction is warranted. To satisfy that burden in a case where jurisdiction is based on ORS 419B. 100(1)(c), DHS must prove ‘that the factual bases for jurisdiction persist to the degree that they pose a current threat of serious loss or injury that is reasonably likely to be realized.’ Dept. of Human Services v. J. M., 260 Or App 261, 267, 317 P3d 402 (2013); see also Dept. of Human Services v. A.R. S., 258 Or App 624, 635, 310 P3d 1186 (2013), rev dismissed, ___ Or ___ (2014). In other words, DHS must prove that the factual bases for jurisdiction continue to ‘present a threat of danger—i.e., serious loss or injury—that is current and not speculative.’ A.R. S., 258 Or App at 634, 310 P3d 1186. Because juvenile court jurisdiction over a child must be based on a current and non-speculative threat, it cannot be based on a parent's past problems, absent evidence that the problems persist and endanger the child. M. Q., 253 Or App at 787, 292 P3d 616. On this point, M. Q. and J. M. are instructive.

“In M. Q., we held that evidence that the father had abused methamphetamine in the past and had failed to complete drug treatment was insufficient to support jurisdiction over the father's child when there was no evidence that the father had used drugs in the year preceding the jurisdictional hearing. 253 Or App at 786–87, 292 P3d 616. In doing so, we rejected DHS's argument that jurisdiction was justified because it was likely that the father would relapse into methamphetamine abuse. That argument was based on a DHS caseworker's testimony that ‘she had worked with many drug-affected parents and could not recall any situations in which a parent had been able to overcome a methamphetamine addiction without treatment.’ Id. at 782, 292 P3d 616. In rejecting the argument, we explained that ‘[the caseworker's] generalized lay observation is not enough, standing alone, to support an inference that father is reasonably likely to relapse in a way that is reasonably likely to endanger the child, as it is not tied to any evidence related specifically to father. In the absence of relevant, individualized evidence about father's current circumstances, the juvenile court erred in asserting jurisdiction on the basis of any concern about his
potential for relapse.’ Id. at 787, 292 P3d 616 (emphasis added). Thus, M.Q. establishes that jurisdiction cannot be based on generalizations about the risk of recurrence of certain types of conduct.

“In J. M., the juvenile court took jurisdiction over the father's two children based on the father's use of illegal corporal punishment against one of them. 260 Or App at 263, 317 P3d 402. After the court took jurisdiction, the father—who believed that physical discipline was supported by biblical scripture—worked with a parent trainer, ‘who assisted him in reevaluating his views regarding physical discipline.’ Id. at 263–64, 317P3d 402. The father also ‘regularly attended visits with the children and completed a parenting-education class with a grade of 105.3 percent.’ Id. at 264, 317 P3d 402. Nevertheless, a psychologist who evaluated the father opined that the father ‘lacked insight into the effects of physical punishment on his children’ and that ‘[o]ld patterns of behavior [would] continue as soon as authorities leave.’ Id. The psychologist based his opinion on his belief that the father had failed ‘to internalize the social norms against inappropriate corporal punishment.’ Id. at 268, 317P3d 402.

“At a review hearing, the father moved to dismiss the juvenile court's jurisdiction over the children and testified that, ‘although he still believe[d] that some physical discipline [was] an option under Christian scriptures, he would not use it’ because, among other reasons, he did not want to risk losing his children. Id. at 265, 317 P3d 402. The trial court denied the motion and, on the father's appeal, we reversed. We explained that the ‘dispositive question’ was what the father ‘[w]as likely to do.’ Id. at 268, 317 P3d 402 (emphasis in original). We further explained that, even assuming that the father had failed to internalize social norms against corporal punishment, that fact would not make it reasonably likely that he would violate those norms. Id. at 268–69, 317 P3d 402. Accordingly, we concluded that DHS had failed to carry its burden of proving that ‘[the] father— contrary to his own assertion, self-assessment, and outstanding completion of a parent education class— pose[d] a current threat of serious loss or injury that [was] reasonably likely to be realized.’ Id. at 269, 317 P3d 402. Thus, J.M. establishes that, in order to continue jurisdiction based on a parent's past conduct, it must be reasonably likely that the parent will engage in that conduct again and will do so in a way that will put the child at risk of serious loss or injury. Evidence that a parent has not fully acknowledged the extent or consequences of his or her past endangering conduct can be a basis for continued jurisdiction only if there is evidence that the parent's failure to do so makes it likely that the parent will engage in the conduct again.

“With that statutory and case law in mind, we return to the evidence in this case. As recounted above, the undisputed evidence before the juvenile court was that mother herself brought the family to the attention of DHS when she called to report that father had thrown a game piece at her. Following that call, a deputy interviewed mother and DHS investigated the family. Mother minimized father's conduct at first, but eventually admitted that father had used violence against her
approximately 20 times and there had been approximately 30 incidents to which
the children should not have been exposed. After the juvenile court took
jurisdiction over the children, mother moved into a domestic violence shelter,
where she lived with the children for several months. She submitted to a mental
health assessment and participated in some individual counseling. While at the
shelter, mother regularly participated in weekly domestic violence support group
meetings. After mother had done so for approximately two months, the group
counselor reported that mother had shown ‘a thorough understanding of the
domestic violence cycle and the negative impact that it has on children’ and had
‘demonstrated exceptionally strong parenting skills and [had] the confidence and
knowledge to protect her children from domestic violence.’ Mother later
submitted to a psychological evaluation, followed by some individual counseling
and continued participation in domestic violence support group meetings. After
seven months at the shelter, mother and the children moved into their own
residence, for which mother was able to pay the rent. By DHS’s own report,
mother was parenting the children well; they were healthy, making
developmentally appropriate gains, and happy in her care.

“DHS was pleased with mother's parenting; it sought continued
supervision based only on the possibility that father would engage in domestic
violence and mother would fail to protect the children. Undeniably, mother had
failed to protect the children in the past, but, as discussed, continued jurisdiction
cannot be based on a parent's past conduct, absent individualized evidence that the
parent's conduct is likely to recur and endanger the child. In some cases, evidence
of a parent's pattern of relapse may be sufficient to establish that it is reasonably
likely that the parent will relapse again, but in this case there is no evidence of
such a pattern.

“Mother planned to reunite with father if and when allowed to do so, but
evidence of that plan is insufficient to support a conclusion that, at the time of the
review hearing, there was a nonspeculative, current threat of harm to the children
that justified continued jurisdiction. It is undisputed that mother and father had
abided by the restrictions on the contact between them and between father and the
children, and that, if the juvenile court dismissed jurisdiction, father would still be
subject to the conditions of his probation regarding contact with mother and the
children.

“In sum, by the time of the review hearing, mother had demonstrated that
she could parent the children on her own and abide by a requirement not to have
contact with father. She had also participated in domestic violence counseling and
domestic violence support group meetings. We conclude that, given mother’s
actions after the court took jurisdiction, there was insufficient evidence to support
a conclusion that, at the time of the review hearing, the factual bases for
jurisdiction persisted to the degree that they posed a current threat of serious loss
or injury that was reasonably likely to be realized.”

The father filed a motion to dismiss dependency jurisdiction over his two children. The juvenile court considered the father’s motion at a contested permanency hearing at which DHS and the children requested that the court change the children’s permanency plans from reunification to adoption.

At the hearing, DHS offered several exhibits, including a psychological evaluation of father, a police report describing an incident involving father and the children, counseling records, and some of the children’s medical records. Father objected to the exhibits on the basis that they were “hearsay and contained hearsay.” Father argued that the exhibits were inadmissible for purposes of deciding both whether to dismiss jurisdiction and whether to change the children’s permanency plans. DHS argued that the exhibits were admissible for both purposes under the exception to the rules of evidence set out in ORS 419B.325(2), which provides:

“For the purpose of determining proper disposition of the ward, testimony, reports or other material relating to the ward’s mental, physical and social history and prognosis may be received by the court without regard to their competency or relevancy under the rules of evidence.”

The court relied on that statute in overruling father’s objections and receiving the exhibits into evidence. Ultimately, the trial court denied father’s motion to dismiss dependency jurisdiction and ruled to change the children’s permanency plans from reunification to adoption.

Father appealed, arguing that the ORS 419B.325(2) exception to the Oregon Evidence Code does not apply to a juvenile court’s jurisdictional determination because the decision to continue or dismiss jurisdiction is not a “disposition” as that term is used in the statute. Father also argued that a permanency hearing consists of both an adjudicative phase and a dispositional phase and that the ORS 419B.325(2) exception applied only to the dispositional phase.

DHS responded that once the juvenile court has asserted jurisdiction over a child, any decision whether to continue or dismiss jurisdiction is a “disposition” within the meaning of the statute. Similarly, DHS argued that a permanency hearing is entirely “dispositional” and that the ORS 419B.325(2) exception applies to all aspects of a permanency hearing.

The Court of Appeals reversed the juvenile court’s order denying father’s motion to dismiss jurisdiction and remanded for the juvenile court to reconsider the motion but otherwise affirmed the permanency judgment. The Court of Appeals concluded that the legislature did not intend for the term “disposition of the ward” to encompass any jurisdictional determinations, including the determination of whether to dismiss jurisdiction:

“We begin by considering whether ORS 419B.325(2) applies in the context of a motion to dismiss juvenile court jurisdiction. That question hinges on what the legislature intended by the use of the term ‘disposition of
the ward,’ because it is only for that limited purpose that the legislature authorized the suspension of otherwise-applicable evidentiary requirements. * * * ‘Disposition’ should be its ‘plain, natural, and ordinary meaning,’ which we attempt to do by turning to the relevant dictionary definition of the term. PGE v. Bureau of Labor and Industries, 317 Or 606, 611, 859 P2d 1143 (1993); Dept. of Rev. v. Faris, 345 Or 97, 101, 190 P3d 364 1 (2008). That definition provides:

“‘1 : the act or the power of disposing or disposing of or the state of being disposed or disposed of: as a: ADMINISTRATION, CONTROL, MANAGEMENT; * * * b: a placing elsewhere, a giving over to the care or possession of another, or a relinquishing * * * : the power of so placing, giving, ridding oneself of, relinquishing, or doing with as one wishes * * *.’

“Webster’s Third New Int’l Dictionary 654 (unabridged ed 2002). That definition can be read to support father’s argument that ‘disposition’ refers only to the court’s exercise of its power to direct the ward’s placement, care, and supervision (the ‘act’ of administering or ‘giving over to the care or possession of another’) as well as DHS’s argument that ‘disposition’ encompasses the court’s jurisdictional decisions (the ‘power’ to administer or place elsewhere).

“When read in context, however, it becomes clear that the legislature did not intend the relaxed evidentiary standard of ORS 419B.325(2) to encompass a juvenile court’s jurisdictional determination. As an initial point, the other uses of the term ‘disposition’ in the juvenile dependency statutes either support father’s position or, at the least, do not support DHS’s. See State v. Klein, 352 Or 302, 309, 283 P3d 350 (2012) (a statute’s context includes ‘related statutes’). For instance, ORS 419B.117(1)(c) provides that notice must be given to a parent or guardian of their right to ‘appeal a decision on jurisdiction or disposition made by the court.’ (Emphasis added.) That disjunctive phrasing suggests that a jurisdictional determination is distinct from the ‘disposition’ of the ward. Additionally, in the protective-custody context, ORS 419B.168 refers to ‘the court or a person appointed by the court to effect disposition’ (emphasis added); ORS 419B.175 refers to ‘a person designated by a court to effect disposition of a child.’ Of course, no entity but the court is authorized to effect a juvenile court’s jurisdiction, but other persons may naturally be appointed to effect the court’s directions as to the ward’s placement, care, or supervision.

“More revealing, however, is the fact that, in order to establish juvenile court jurisdiction over a child in the first instance, ‘[t]he facts alleged in the petition showing the child to be within the jurisdiction of the court as provided in ORS 419B.100(1), unless admitted, must be established by a preponderance of competent evidence.’ ORS 419B.310(3). There is no
argument from DHS that ORS 419B.325(2) applies to an initial determination whether a child is within the juvenile court’s jurisdiction. Nonetheless, DHS’s position is that, once juvenile court jurisdiction has been established with competent evidence, the exception of ORS 419B.325(2) applies to subsequent challenges to that jurisdiction.

“We answer that contention with two points. First, where the legislature has intended for the exception of ORS 419B.325(2) to apply--e.g., in permanency hearings and review hearings—the legislature has stated that intent. See ORS 419B.449(2) (at a review hearing the "court may receive testimony and reports as provided in ORS 419B.325"); ORS 419B.476(1) (same for permanency hearing). The legislature has stated its intent that jurisdiction must be established in the first instance with competent evidence, ORS 419B.310(3), but has not expressed an intent to exempt subsequent jurisdictional determinations from that competent-evidence requirement. Second, the factual and legal considerations that are relevant to establishing jurisdiction in the first instance and to maintain jurisdiction in the face of a motion to dismiss do not differ in any significant respect. Compare, e.g., State ex rel Juv. Dept. v. Smith, 316 Or 646, 653, 853 P2d 282 (1993) ("If, after considering all the facts, the juvenile court finds that there is a reasonable likelihood of harm to the welfare of the child, the court may take jurisdiction."), with Dept. of Human Services v. J. M., 260 Or App 261, 267, 317 P3d 402 (2013) ("[W]hen the court's continued jurisdiction is at issue, DHS has the burden of showing that the conditions that were originally found to endanger the child persist."). Moreover, the results that flow from either determination are identical, viz., juvenile court jurisdiction, vel non. In view of the important interests at stake, the legislature has imposed a significant evidentiary threshold that those who would seek to make a child a ward of the court must cross by using only competent evidence. In the absence of an explicit indication to the contrary, it is not persuasive to suggest that the legislature intended for the juvenile court's jurisdiction, once established with competent evidence, to be perpetuated with less-than-competent evidence. We therefore conclude that ORS 419B.325(2) cannot serve as the basis for the court to receive or consider evidence for the purpose of making a jurisdictional determination.”

Dept. of Human Services v. D.A.S., 261 Or App 538, 323 P3d 484 (2014) (Coos County; Martin E. Stone, Judge).

The State of Washington’s child-welfare agency opened a dependency case for the father’s youngest child, G. Thereafter, the Oregon juvenile court asserted jurisdiction over father’s older child, A, because (1) father’s wife had an open child-welfare case (involving other children not related to the father or A); (2) father had limited contact with A; and (3) father did not have custody of A and “would be unable to protect her” from mother’s “drug use and neglect.” DHS and the juvenile court each believed that it was necessary for Washington to approve of father as a placement through the Interstate Compact for Placement of Children (ICPC) before the Oregon juvenile court could terminate the wardship. And, on two successive
occasions, Washington summarily denied the father ICPC approval. In the meantime, father regularly visited with A and Washington closed its case regarding G.

Thereafter, the juvenile court held a permanency hearing, and the father moved the court to terminate its wardship over A. DHS opposed the motion, arguing that “more time was necessary to obtain a home study through the Washington ICPC” and that the jurisdictional bases persisted. The court ruled to continue the wardship, and father appealed.

On appeal, DHS argued that ICPC approval was a necessary predicate to terminating the wardship. The Court of Appeals disagreed. Reasoning that DHS failed to prove, inter alia, that father’s lack of a custody order warranted the continuation of jurisdiction, the Court of Appeals reversed and remanded to the juvenile court for entry of an order of dismissal without regard to whether Washington had approved of father through the ICPC:

“In this case, DHS presented no evidence that mother’s circumstances, as they existed at the time of the permanency hearing, posed a danger to A, such that father’s lack of a custody order presented a reasonable likelihood of danger to A. The juvenile court considered whether A would suffer some risk of actual, immediate harm due to father’s lack of sole legal custody. DHS presented no evidence that mother would engage in behaviors from which father would need to protect A; the hypothetical situation put forth by the court was not supported by any evidence in the record and was pure conjecture.

“Because DHS failed to establish a current risk of serious loss or injury to A for each of the bases on which the juvenile court concluded continued jurisdiction was warranted, we conclude that the record is legally insufficient to support the juvenile court’s continued jurisdiction. Thus, the juvenile court erred in denying father’s motion to dismiss.

“Reversed and remanded with instructions to terminate the wardship.”


The mother admitted that (1) “mother may have a substance abuse problem which impairs her judgment, decision-making and ability to safely parent. Mother agrees to a substance abuse evaluation and follow through with any treatment recommendations including random UAs”; (2) “mother may have mental health issues that impair her judgment, decision-making and ability to safely parent. Mother agrees to participate in a psychological evaluation and follow any treatment recommendations”; and (3) “mother left the child with others who did not adequately supervise her, placing her at risk of harm.” Based on those facts, the juvenile court asserted jurisdiction over mother’s child.

Three years later, after the juvenile court had changed the child’s plan to guardianship, the court conducted a hearing on DHS’s motion to establish the guardianship under ORS 419B.366. In support of its motion, DHS offered the audio recording and exhibits from a permanency hearing conducted 14 months earlier. DHS’s caseworker testified that she had “no knowledge” about mother’s current status. The mother contested the establishment of the
guardianship arguing, \textit{inter alia}, that the child “is not presently in danger of abuse if she is returned to her mother” and that DHS’s motion for guardianship should be denied and the dependency case should be dismissed. The juvenile court did not allow mother to contest whether she suffered from substance abuse or mental health issues reasoning that “issue preclusion” barred mother from litigating whether she suffered from those infirmities to the detriment of her child.

Mother appealed arguing, \textit{inter alia}, that the juvenile court’s rulings to continue jurisdiction and implement a guardianship were erroneous because they were not supported by any evidence that the mother currently suffered from substance abuse and mental issues sufficient to warrant jurisdiction. Holding that “the juvenile court’s initial jurisdictional determination is not subject to collateral attack in that manner,” the Court of Appeals affirmed:

“Mother appeals a judgment of the juvenile court establishing a guardianship under ORS 419B.366 for her minor child. Her first assignment of error asserts that ‘[t]he juvenile court erred in denying mother’s motion to terminate the wardship.’ However a review of the record demonstrates that mother did not move to terminate the wardship, or otherwise properly place the continuing jurisdiction of the court at issue. Instead, mother used the guardianship hearing to attack the court’s initial jurisdictional determination.

“For example, in her initial memorandum opposing the guardianship, mother argued:

\textit{“In this case the [Department of Human Services (DHS)] has asserted that [mother] has an alcohol and substance abuse problem, but has been unable to show that he alleged problem affects her parenting of [child]. The agency asserted jurisdiction based on speculation that if [mother] had an alcohol or substance abuse problem then it would affect [child]. The agency has kept child in foster care because [mother] has failed to satisfy the agency with regard to her behavior, without ever establishing that [child] was in fact in danger.”}\n
\textit{(Emphases added.)} Specifically, mother pointed to the fact that she had never been arrested for conduct related to the use or possession of alcohol or drugs. She asserted that, although DHS may have a ‘moral or political position that possession or use of illegal drugs or use of alcohol should disqualify a parent from parenting a child.’ That position ‘do[es] not establish that a child is in danger or in the jurisdiction of the juvenile court.’

“Mother’s post-hearing memorandum further confirms her intent to collaterally attack the initial jurisdictional determination, rather than to contest the continuing jurisdiction of the juvenile court. As mother framed the issue after the hearing,

\textit{“The continuing problem here is that [DHS] has assumed that [mother] has a substance abuse and alcohol problem which she will not address, without the agency ever establishing that such a problem existed.”}
“* * * * *"

“‘It is no wonder that the agency’s treatment program fails when the agency seeks to solve a non-existent problem by insisting that [mother] has to acknowledge and accept the erroneous conclusion that [mother] has endangered [child] by alcohol and drug abuse.’

“(Emphases added.) And the evidence submitted by mother in conjunction with her post-hearing memorandum included several declarations from people stating that mother had ‘never’ had any mental health or substance abuse problems that affected her capacity to parent, further indicating that mother’s focus was on the initial jurisdictional determination.

“The juvenile court’s initial jurisdictional determination is not subject to collateral attack in that manner. Once the initial jurisdiction of the court is established, the issue in later proceedings - - if jurisdiction is at issue- - is whether jurisdiction continues. See Dept. of Human Services v. A.R.S., 258 Or App 624, 634, 310 P3d 1186 (2013), rev allowed, 354 Or 735 (2014) (when a juvenile court’s continuing jurisdiction is at issue, the review hearing ‘does not include a retrial of the original allegations’; rather, ‘[t]he evidence is limited to whether the conditions that were originally found to endanger a child persist’ (internal quotation marks omitted)).

“In sum, contrary to the allegations in her first assignment of error, mother did not file a motion to terminate the wardship, nor did she place the court’s continuing jurisdiction at issue by some other means. We reject the first assignment of error for that reason, and reject mother’s other assignments of error without discussion. Accordingly, we affirm.”

261 Or App at 816-17 (footnote omitted).

III. Disposition


After the juvenile court took jurisdiction over the parents, it appointed DHS as the children’s legal custodian and legal guardian. Some months later, DHS sought to immunize the children. The parents objected on two bases: (1) that the court had never found them to be unfit to make medical decisions and (2) that mother had religion-based concerns. The juvenile court allowed DHS to immunize the children, and the parents appealed. The juvenile court stayed the immunization order pending appeal.

On appeal, the parents argued that DHS lacked statutory authority to make medical decisions for the children because medical neglect was not one of the bases for juvenile court jurisdiction. The parents also argued that, under Troxel v. Granville, 530 US 57, 120 S Ct 2054, 147 L Ed 2d 49 (2000), even if the juvenile code gave DHS authority to make medical decisions, it could not exercise that authority unless DHS first established that the parents were unfit to
make immunization decisions. The Court of Appeals rejected both arguments, holding that nothing in the juvenile code or in Troxel limits DHS’s authority—as the guardian and custodian—to make medical decisions.

On review before the Oregon Supreme Court, the parents renewed their arguments. They argued that, although ORS 419B.376 might appear to give DHS authority to immunize the children, that authority was limited by later-enacted statutes that created long-term guardianships. In addressing that argument, the court explained that DHS’s duties and powers as a guardian are different from and greater than those that DHS has as a custodian.

Under ORS 419B.376, DHS “can consent to the ward’s marriage, authorize the ward to enlist in the armed forces, authorize surgery for the ward, and make other decisions concerning the ward of substantial legal significance.” The court agreed that the power to “make other decisions * * * of substantial legal significance” includes the power to immunize wards in DHS’s care against common childhood diseases.

The court also determined that all types of guardianships (guardianships established as an incident of wardship, durable guardianships, and permanent guardianships) share the same decision making authority, which is set out in ORS 419B.376. In other words, durable and permanent guardianships do not provide guardians with broader powers than is provided to DHS as the guardian incident to wardship.

Finally, the court rejected the contention that ORS 419B.372 and 419B.376 violated the parents’ due process rights, although the court noted that a legal custodian or guardian could make other decisions on a child’s behalf “that potentially could implicate the child’s or the parent’s constitutional rights.” Note: In a footnote, the court noted that DHS’s decision was not unilateral and that “a doctor still has to conclude that immunization against common childhood diseases is medically appropriate.” Id. at 249 n 5.

**Dept. of Human Services v. A.E.F., 261 Or App 384, 323 P3d 482 (2014) (Linn County; Daniel R. Murphy, Judge).**

The juvenile court asserted jurisdiction over the mother’s child based on mother’s admission that the child had “presented with bruising and/or injuries consistent with inflicted injury,” mother “used inappropriate and excessive discipline on [the child],” and mother “has an anger management/control problem [that] impairs her ability to parent.” At the dispositional hearing, DHS requested that the court order the mother to submit to a psychological evaluation. The court declined, concluding that its authority to order a psychological evaluation was limited to two circumstances, neither of which was present in the case: (1) where there is “an admission or proof in a jurisdictional hearing that someone suffers from or may suffer from a psychological condition that an evaluation would * * * assist to provide services to address” and (2) where “a parent has been offered services for a period of time and has not appeared to benefit from those services and nobody can explain why.”

The child appealed the dispositional judgment, arguing that the juvenile court erred in construing its authority in such a limited fashion. The Court of Appeals agreed and remanded
for the juvenile court to apply the correct legal standard and determine anew whether to order a psychological evaluation:

“We disagree that the court’s authority is so limited. In State ex rel Juv Dept. v. G.L., 220 Or App 216, 224, 185 P3d 483, rev. den. 345 Or 158, 190 P3d 379 (2008), we explained that the juvenile statutes authorize a court to order a parent to participate in a psychological evaluation if the evaluation ‘bears a rational relationship to the bases the court found for taking jurisdiction.’ See also Dept. of Human Services v. B.W., 249 Or App 123, 128, 275 P3d 989 (2012) (‘[a] “rational relationship” is a minimal threshold of justification.’). Although in G.L., we concluded (on de novo review) that such a relationship existed due to the fact that mother had failed to benefit from past services and that a psychological evaluation would assist DHS in determining whether there was a mental health diagnosis that could be the cause of that failure, our holding did not limit the court’s authority to order a psychological evaluation of a parent to those circumstances.

“In short, we agree with child and DHS that the juvenile court erred in construing its authority to order a psychological evaluation as narrowly as it did. Accordingly, we vacate and remand for the juvenile court to determine whether there is a rational relationship between the findings that brought the child within the court’s jurisdiction and the proposed psychological evaluation.”

261 Or App at 386-87 (footnotes omitted).

Dept. of Human Services v. T.L., 262 Or App 623, 326 P3d 1219 (2014) (Marion County; Thomas M. Hart, Judge).

The juvenile court asserted jurisdiction over the father’s children, concluding that DHS proved that the children were endangered because, among other things, the father had “engaged in the ongoing behavior of seeking and inviting strangers into the children’s home for the purpose of exchanging sexual favors for money and controlled substances, often encouraging those strangers to be under the influence of controlled substances.” After asserting jurisdiction, the court suspended father’s visits with the children.

Father appealed, assigning error to (1) the juvenile court’s ruling that the department had proven that his “prostitution activities” endangered the children and (2) the juvenile court’s ruling to suspend his visits with his children.

In support of his first assignment of error, father argued that DHS had failed to prove that the children were endangered by his “prostitution activities” because it presented no evidence that the children were previously exposed to any sexual acts or that father was likely to solicit sexual acts absent the participation of mother, with whom father was no longer in a relationship. In support of his contention that the juvenile court erred in suspending visitation, father argued that due process requires that a “parent is entitled to visitation with the child unless the record establishes that visitation with the parent would endanger the health or safety of the child.” Father further argued that DHS failed to satisfy that standard because it failed to present
evidence that father “behaved inappropriately in visits or was causing any safety risk to the children.” Concluding that father below failed to preserve either argument for appeal, the Court of Appeals affirmed:

“In his first assignment of error, father asserts that the juvenile court erred in finding that DHS had proved the second allegation. In support of that assignment, father argues that DHS did not prove that the alleged prostitution activities endangered the children. Specifically, he argues that DHS failed to prove that the children were endangered by any prostitution activities that may have occurred in the past because ‘there was no evidence presented that the children were actually exposed to any sex acts,’ and that DHS failed to prove that the children were at risk of harm from any future prostitution activities because ‘[f]ather was not in a current relationship with [m]other’ and ‘there was no evidence that [solicitation of sexual acts] was likely to recur absent [m]other’s ‘participation.’

“Father’s argument is unpreserved. ORAP 5.45(1) (‘No matter claimed as error will be considered on appeal unless the claim of error was preserved in the lower court * * *.’). In the juvenile court, father admitted that he and mother had participated in sexual activities with strangers, but denied that he had known that mother had received money and drugs in exchange for their participation. In other words, father denied having knowingly participated in prostitution. Father asked the court to dismiss the prostitution allegation, asserting that ‘the Court has a “he said she said” situation,’ and that mother was not credible. The court expressly rejected father’s argument that he did not knowingly participate in prostitution. At no point did father make an alternative argument that the alleged prostitution activities did not endanger the children. Thus, DHS did not have an opportunity to respond to that argument and the trial court did not have an opportunity to address it. Davis v. O’Brien, 320 Or. 729, 737, 891 P.2d 1307 (1995) (Preservation ensures that ‘parties are not taken by surprise, misled, or denied opportunities to meet an argument.’); State v. Wyatt, 331 Or 335, 343, 15 P3d 22 (2000) (‘[A] party must provide the trial court with an explanation of his or her objection that is specific enough to ensure that the court can identify its alleged error with enough clarity to permit it to consider and correct the error immediately, if correction is warranted.’). As a result, we will not address it.

“In appeal, father asserts that ‘when a child is placed in substitute care, the parent is entitled to visitation with the child unless the record establishes that visitation with the parent would endanger the health or safety of the child.’ In support of that proposition, father cites ORS 419B.090(4) and Santosky v. Kramer, 455 US 745, 753, 102 S Ct 1388, 71 L Ed 2d 599 (1982), both of which establish, generally, that the liberty interests of parents are protected by the Due Process Clause of the Fourteenth Amendment to the United States Constitution. Based on that proposition, father argues that the court erred because DHS ‘failed to show any evidence that [f]ather behaved inappropriately in visits or was causing any safety risk to the children.’ Thus, on appeal, father is asserting that
DHS failed to present constitutionally sufficient evidence to support the court’s suspension of his visitation.

“Father did not make that argument in the juvenile court. At most, he asserted that denying him visitation would be harmful to the children or would not be in their best interests. On appeal, he argues for a different, more stringent test. Unlike DHS, which argues that a juvenile court can deny a parent visitation if doing so is in a child’s best interest, father now argues that, as a matter of due process, a juvenile court can deny a parent visitation only if the parent has behaved inappropriately in visits or poses a safety threat to the child. If father had raised that argument below, DHS would have had an opportunity to counter, and the juvenile court would have had an opportunity to consider, father’s proposed test for suspension of visitation. DHS might have elicited additional testimony regarding father’s conduct during the visits and whether the visits caused a safety risk to the children. In addition, the juvenile court might have focused on whether permitting the visits endangered the children, rather than on the different legal question of whether suspending the visits was in their best interests. Father’s second assignment of error is unpreserved and, therefore, we will not address it.”

262 Or App at 625-628 (footnotes omitted).

IV. Permanency

Dept. of Human Services v. T.S., 267 Or App 301, ___ P3d ___ (2014) (Multnomah County; Beth A. Allen, Judge).

The department removed the father’s child, T, from the mother’s care after an incident of domestic violence between the parents in T’s presence. The department petitioned, and the juvenile court asserted jurisdiction over T based on mother’s drug use and exposure of T to “unsafe people,” and father’s drug use and domestic violence against mother. Throughout the dependency case, father continued to struggle with his addiction and informed the department of his interests to participate in services and have contact with T. The juvenile court held a permanency hearing and continued the plan of reunification because the department had returned T to mother’s care. At the time of that hearing, father was arrested and in jail.

Roughly nine months after the department had returned T to mother’s care, the department removed T and returned her to family foster care. Thereafter, the court held a second permanency hearing before a juvenile referee. By that time, father had been incarcerated for nearly one year and, through his attorney, had continued to make repeated requests to the department to facilitate contact with T. The department contacted father three times a few month before the permanency hearing. Father argued that the department had failed to make reasonable efforts. The department informed the referee of its “extensive efforts toward mother” and requested an extension to provide further services. The referee denied the department’s request for an extension and changed T’s permanency plan to adoption, based on its conclusion that the department’s efforts were reasonable. Father requested a rehearing, at which father presented evidence about his progress in services while incarcerated. The department’s caseworker testified that because the department believed that T would return to mother’s care,
the department decided not to develop a relationship between T and father. The juvenile court affirmed the referee’s order and entered a permanency judgment concluding that the department made reasonable efforts to reunify T with father both before and during his incarceration.

Father appealed, arguing that the department had failed to make reasonable efforts towards assisting him reunify with T. The Court of Appeals reversed, determining that the department’s efforts were not reasonable given father’s participation in services in prison and his numerous requests to the department for assistance to facilitate contact with T.

Writing the concurring opinion, Judge Ortega agreed with the majority’s determination that the department’s efforts were not reasonable in this case, but disagreed with the majority’s analysis because it “place[d] too great an emphasis on the parent’s behavior.” Comparing the majority’s decision in this case, in which the court determined that the department’s efforts were not reasonable, with its decision in Dept. of Human Services v. S.W., 267 Or App 277, ___ P3d ___ (2014), in which it determined that the department’s efforts were reasonable, the concurring opinion tried to illustrate how the court’s focus on the “parent’s behavior” could lead to differing outcomes in cases where the department had ceased to make efforts toward assisting a parent ameliorate the jurisdictional bases for an extended period of time.

**Dept. of Human Services v. S.W., 267 Or App 277, ___ P3d ___ (2014) (Wasco County; Janet L. Stauffer, Judge).**

The father’s child was born prematurely and had emotional problems and severe physical problems. The department removed the child from mother’s care in April 2010, when father was incarcerated. He was released shortly thereafter. The juvenile court asserted jurisdiction over the father’s child in June 2010 based on the father’s “use of controlled substances and/or alcohol” and his incarceration.

The department met with the father, referred him to residential substance abuse treatment, and arranged for the child to visit him in treatment. After the father was released from treatment, he stopped communicating with the department. He was arrested in January 2011 and was sentenced to 45 months incarceration. The department sent the father letters of expectation, had two phone calls and one meeting with the father during which it told father to participate in any services available in prison, encouraged him to write the child letters, and arranged for a psychological evaluation of the father. The father completed the Pathfinders program; participated in a parenting class, a Native American support group, and the department-referred psychological evaluation; and wrote the child letters. The father requested visits with the child and regular phone conferences with the department’s caseworker, and he provided the name of the person at the prison who could arrange phone conferences. The department did not contact father’s prison counselor until November 2013, shortly before the permanency hearing that was the subject of the father’s appeal, at which time it inquired about the possibility of the child visiting the father and learned that visiting in a private room was possible.

At a November 2013 permanency hearing, the department requested that the juvenile court change the child’s permanency plan from reunification to adoption. Over the father’s objection, the juvenile court concluded that the department’s reunification efforts had been
reasonable and that the father’s progress had not been sufficient, and changed the child’s permanency plan away from reunification.

The father appealed, arguing that the department failed to prove that its reunification efforts were reasonable because, in the 33 months preceding the permanency hearing, the department (1) failed to communicate with the father’s prison counselor about services available to the father in prison and (2) failed to make any attempt to determine whether the child could visit the father in prison. The court acknowledged that the department’s efforts during that 33-month period were “hardly vigorous.” But it concluded that they were nonetheless reasonable in light of the department’s early efforts, because of the father’s failure to respond to those efforts in a “constructive fashion,” his lengthy period of incarceration, there was “no dispute that [the] father knew what [the department] expected of him,” and the department had determined that visits with the father at the prison were not in the child’s best interests.

Judge Ortega dissented, explaining that the majority’s approach in evaluating whether the department’s reunification efforts are reasonable allows the department “to gamble against making such efforts if it appears that a parent is unlikely to be worthy of its investment of time.” Ultimately, the dissent concluded that the department’s reunification efforts were not reasonable due to its lack of efforts during the 33 months preceding the permanency hearing, when the father was incarcerated. The dissent explained that a “parent does not earn the right to reasonable efforts, and a parent’s failure to engage consistently early in a case cannot excuse the cessation of efforts by DHS as the case proceeds.” The dissent observed that the “father’s early inconsistent responses to treatment are par for the course for addicted parents” and that, “[t]ak[en] to its logical conclusion, the majority’s approach would excuse DHS from making reasonable efforts in virtually every case involving a parent with a drug or alcohol problem” sufficient to authorize dependency jurisdiction. Furthermore, the majority deferred to the department’s determination that it need not make reunification efforts for incarcerated parents, despite ample case law to the contrary.


The father assumed custody of the child in 2009, after the child’s mother died. In March 2010, father and stepmother married, and father and the child moved in with stepmother and her four children. The juvenile court asserted jurisdiction over the child in September 2011 (although the Court of Appeals did not explain the factual bases supporting jurisdiction). DHS placed the child and three of the stepsiblings in foster care with the stepmother’s mother. In August 2013, the juvenile court held a permanency hearing, after which it rules to change the child’s plan away from reunification to another planned permanent living arrangement (APPLA).

Father appealed, arguing that DHS failed to prove (1) that its reunification efforts were reasonable, and (2) that father’s progress was insufficient. Specifically, father argued that DHS:

“(1) unreasonably delayed offering to pay for father’s ADHD medication until the children had been in state custody for 22 months; (2) unreasonably did not start family counseling with the child until 22 months into the case; (3) unreasonably discontinued family counseling between father and the child
after only one session, based on one negative session between father and one of the stepchildren; and (4) unreasonably limited father's visits with the child to only one hour per week, thereby failing to facilitate the child's successful return to the family.”

Reasoning that the failure to assist with necessary medications together with the department’s 22-month delay culminating in the provision of a single counseling session between the father and his sole biological child were reasonable because the father’s attempt at counseling with his teenage step daughter had been unsuccessful, the Court of Appeals affirmed.

**Dept. of Human Services v. R.B., 263 Or App 735, 329 P3d 787 (2014) (Lincoln County; Paulette E. Sanders, Judge).**

In a consolidated appeal, mother challenged a judgment of jurisdiction and a permanency judgment. Mother’s two daughters had been made wards of the court in September 2011, based on mother’s admission that her impulsive behavior, which she either could not or would not control, made the children unsafe and her admission that her behavior exemplified her lack of parenting knowledge, skills and motivation. From 2011 to 2013, mother received services, including mental health services. In July 2013, DHS filed a second petition, alleging that mother had mental health problems that prevented her from safely parenting her children. The hearing on the new petition was conducted at the same time as the permanency hearing at which DHS sought to change the children’s plan to adoption. The juvenile court took jurisdiction based on the new finding and changed the plan.

On appeal mother argued that (1) the original allegations to which she admitted in 2011 were too vague to allow a determination that her progress toward ameliorating the bases for jurisdiction had been ameliorated; (2) the juvenile court improperly considered evidence her mental health when it changed the plan, because her mental health had only just been adjudged a basis for jurisdiction and, thus, she was not given sufficient notice that she had to make progress on that ground; (3) the evidence was insufficient to prove mother had not made sufficient progress to allow the children’s safe return; and (4) the evidence was insufficient to support the second jurisdictional judgment.

The Court of Appeals rejected all four arguments, ruling that (1) mother’s challenge to the original grounds of jurisdiction was untimely; (2) the juvenile court’s decision to change the plan was based on mother’s lack of progress in ameliorating the bases that found jurisdiction, not the second one, and the evidence was sufficient to prove she had not made sufficient progress; (3) mother’s need to address her mental health problems could fairly be inferred from the original finding of jurisdiction and, in fact, she had received mental health services throughout the proceedings; and (4) the evidence was sufficient, under the applicable standard of review, to support the second jurisdictional judgment.

The department sought to change the permanency plan for parent’s child, L, from reunification to adoption. Because L was determined to be an Indian child, the Indian Child Welfare Act (ICWA) applied to this case.

Jurisdiction was based on parents’ cognitive delays, lack of parenting skills, father’s inability to control his anger, and mother’s failure to recognize that father’s anger problems posed a safety risk to L. Parents engaged in services, including psychological evaluations, visitation, and intensive one-on-one parenting training. The juvenile court determined that the department made “active efforts” toward reunification, but that despite those efforts, parents had not made sufficient progress for L to return safely home. The juvenile court relied in large part on notes from a parenting mentor, who concluded that father’s anger problem and mother’s acquiescence to father’s angry outbursts were intractable, and no further services would make it possible for L to return home.

Parents appealed, arguing that the juvenile court violated their procedural due process rights by admitting four reports into evidence (notes by the parenting mentor, psychological evaluations for each parent relying on the parenting mentor’s notes, and a DHS report relying on the conclusions made by the psychologist and the parenting mentor) without an opportunity to cross-examine the authors of those reports. Parents also argued that the services provided by the department to reunify the family did not constitute “active efforts,” and that the court’s decision to change the permanency plan to adoption was a “foster care placement” under ICWA that required expert testimony establishing that continued custody by the parents was “likely to result in serious emotional or physical damage” to L.

The Court of Appeals affirmed, ruling, first, that the circumstances of the case did not violate parents’ due process rights under the balancing test set forth in Mathews v. Eldridge, 424 US 319, 334-35, 96 S Ct 893, 47 L Ed 2d 18 (1976). It agreed with the department that although the “private interest * * * affected by the official action” was important, the government’s “urgent interest” in the welfare of the child was also crucial. And because the purpose of a permanency hearing is to reach a decision about the appropriate permanent plan for the child as expeditiously as possible, the permanency hearing is not a “key juncture” in which heightened protections apply, such as at a termination trial. Further, the court ruled that the “risk of erroneous deprivation” was less than parents contended as they had the ability to subpoena the authors of the reports to question their credentials and the bases for their recommendations, and would have additional opportunity to do so at the termination stage.

Second, the court ruled that the department offered “extensive and appropriate services” to father and mother and had a “persistent involvement in attempting to shepherd parents through those services,” which supported the juvenile court’s determination that the department made “active efforts” to make it possible for L to return home. The court also affirmed the juvenile court’s determination that, despite those efforts, parents did not make sufficient progress to make a return home possible.
Finally, the court ruled that the action changing the plan from reunification to adoption did not constitute a “foster care placement” under ICWA that would trigger a requirement for expert testimony that the parent’s custody was “likely to result in serious emotional or physical damage” to L.

**Dept. of Human Services v. J.M., 262 Or App 133 (2014) (Washington County; Eric Butterfield, Judge).**

The juvenile court had asserted jurisdiction over the parents’ infant, C, based on the parents’ admissions (1) that C had “sustained an unexplained physical injury to include[ ] distal tibial metaphyseal fracture in the child’s tibia while in [their] care” and (2) that their “lack of parenting skills” impaired their “ability to provide minimally adequate care” for C.

Thereafter, the parents participated fully in the services and classes provided by the department. They also participated in regular, twice-weekly supervised visits with C. The department was nevertheless dissatisfied with the parents’ progress—largely because the parents had not provided an explanation for C’s earlier injury—and moved the juvenile court to change C’s permanency plan from reunification to adoption.

In discovery for the upcoming permanency hearing, DHS provided C’s X-rays to the parents for the first time. Upon receiving the X-rays, the father had the images examined by a medical expert, Gabaeff. Based on his review of the X-rays and C’s other medical information, Gabaeff opined that the injury to C’s tibia resulted from infantile rickets and not from “abusive fractures.”

The department moved in limine to exclude Gabaeff’s testimony and any reports, arguing (1) that the parents were “attempting to relitigate the jurisdictional basis at the permanency hearing” and (2) that the parents were seeking to introduce evidence that was not relevant to two issues at the permanency hearing, namely, whether the department’s efforts had been reasonable and whether the parents’ progress had nevertheless been insufficient. The juvenile court granted the department’s motion to exclude the evidence. After the permanency hearing, the court changed C’s permanency plan from reunification to adoption.

The parents appealed, arguing that the juvenile court had erred in excluding their proffered evidence. The Court of Appeals agreed:

“*At* the [permanency] hearing, DHS’s primary theory as to why parents had not made sufficient progress to permit C to return safely home was that parents had not provided an explanation for C’s fracture. DHS argued that it is ‘almost impossible to gauge sufficiency of progress when there is no way to know what happened and to then be able to have a meaningful conversation about how to prevent that from happening again in the future.’ Consistent with that theory, DHS’s caseworker testified that she had not been able to facilitate parents’ progress toward reunification because ‘we really have no idea how this occurred with [C].’ The caseworker explained that, in addition to participating in services, ‘progress also is how people are able to voice their responsibility in what has occurred. They are able to make a plan about how that won’t happen again.’
“Contrary to the juvenile court’s conclusion, the [parents’ proffered] evidence was admissible at the permanency hearing because it was relevant to the assessment of whether parents had made sufficient progress toward ameliorating the conditions that led to the tibia injury, making it possible for C to return safely home. As DHS’s own witness testified—and as DHS itself argued—the assessment of a parent’s progress toward addressing an unexplained injury ordinarily requires a determination of the cause of the injury. That is so because it is a determination of the cause of the injury that enables DHS and the parent to identify what actions are needed to ameliorate the conditions that led to the child’s unexplained injury.

“Here, were a factfinder to credit Gabaeff’s testimony that C’s tibia injury resulted from rickets rather than abuse, that finding would result in an entirely different assessment of parents’ progress towards C’s safe return home than would a finding that the injury resulted from abuse rather than rickets. If C’s injury resulted from rickets, then the focus on parents’ progress would be on what, if anything, parents should have done differently in order to recognize that their child had rickets, and what steps parents should take to avoid a similar situation in the future. If, on the other hand, C’s injury resulted from abuse, the focus on parents’ progress would be on what steps parents should take in order to avoid further abusive conduct.

“Moreover, contrary to DHS’s argument, parents’ attempt to introduce Gabaeff’s testimony and report was not an attempt to relitigate parents’ jurisdictional admissions regarding the injury to C’s tibia. That is, parents did not seek to introduce the evidence to demonstrate that C was not injured, that the injury was not ‘unexplained’ at the time the juvenile court assumed jurisdiction over C, or that the unexplained injury was not of the sort that permitted the juvenile court to assume jurisdiction over C. In addition, parents did not admit or stipulate to any facts regarding the cause of the injury to C, and the juvenile court did not find any such facts in connection with its jurisdictional determination. Because there was never any admission, stipulation, or finding as to the cause of the injury, parents’ attempt to introduce evidence that the injury resulted from rickets does not represent a collateral attack on any prior admission, stipulation, or finding as to the cause of the injury.

“In summary, the cause of C’s tibia injury informs the determination of whether parents have made sufficient progress to permit C to return safely home. The testimony of Gabaeff was probative as to the cause, and parents were entitled to present it to the juvenile court at the permanency hearing, in light of the fact that there was no prior admission, stipulation, or finding as to the cause of C’s injury. Accordingly, we reverse and remand for the juvenile court to conduct a new permanency hearing at which parents are permitted to introduce evidence regarding the cause of C’s unexplained tibia injury.”
V. 419B.366 Guardianship

No cases during the past year.

VI. Termination of Parental Rights


The juvenile court asserted dependency jurisdiction over the father’s four children in August 2011. Approximately 18 months later, the department petitioned the court to terminate the parental rights of both parents. On November 15, 2013, while the father was in custody in King County, Washington, the department served the father with the petition and summons that directed the father to personally appear for a “call date” on November 27, 2013, at 8:30 a.m., and for a trial from December 2 to December 6, 2013, beginning at 9:00 a.m., each day. The summons included a notice to the father that he must personally appear and that, if he failed to appear, the court could terminate the father’s parental rights in his absence. Because the father anticipated being in custody at the time of the trial, his attorney arranged to have a video feed available for the father to participate in the trial from the King County Jail. However, the King County Jail released the father on Wednesday, November 27, 2013, the day before Thanksgiving, at approximately 4:50 p.m. Upon his release, the father was ordered to appear in King County Washington Superior Court to be indicted on additional charges at 8:30 a.m. on the following Monday, December 2, 2013, 30 minutes before the termination trial in Oregon was scheduled to begin.

Father did not appear personally at the termination trial at 9:00 a.m. on Monday, December 2, 2013, but his attorney was initially present. The juvenile court granted the father’s attorney’s request to be excused and allowed the department to present a “prima facie case” for termination. Thereafter, the court terminated the father’s parental rights. The father appealed arguing that, given the circumstances and the interests at stake, he was entitled to a continuance of the trial on the department’s petition to terminate his parental rights. The Court of Appeals agreed:

“Here, in denying [the] father’s motion for a continuance, the court failed to take into account that [the] father had maintained contact with his attorney in preparation for the termination trial and had been cooperative with the judicial process. Further, the court did not consider that [the] father had previously arranged to appear electronically from jail before he was released from jail near the end of the business day on the eve of a holiday weekend with instructions to appear at an arraignment the following Monday morning, a mere 30 minutes before [the] father’s termination trial was scheduled to begin in another state. Indeed, the court failed to consider that the termination trial was scheduled to occur over the course of four days, from December 2 through December 6, and postponing the hearing for as little as several hours or one day would have allowed [the] father the opportunity to participate in the hearing.”
DHS argues that the court did not abuse its discretion, because [the] father was absent and did not contact his attorney or the court to notify either of his need to be at the arraignment in Washington. Although it appears that [the] father may have had an opportunity to contact his attorney or the court directly on the Friday after Thanksgiving, there is no indication in the record whether [the] father’s attorney’s office had been open that day or—due to the brief nature of the exchange between [the] father’s attorney and the court—that [the] father had not contacted his attorney’s office. The trial court’s one-line inquiry questioned [the] father’s ability to operate a telephone while ignoring entirely the constraints of imprisonment, displacement, and indigence. In any event, in light of [the] father’s involvement with his attorney in preparing for the trial and his attorney’s appearance and argument on his behalf, the reasons behind [the] father’s possible failure to communicate with his attorney do not appear to have any bearing on whether it remained his intention to participate in the termination hearing and whether the juvenile court abused its discretion in failing to grant a continuance.

“Practically speaking, [the] father’s dilemma—being ordered to appear in two courtrooms at approximately the same time—places him in such a difficult position that the trial court was required to choose a different course.”

(Emphasis in original; citations omitted.)

Dept. of Human Services v. M.H., 266 Or App 361, ___P3d____(2014) (Josephine County; Michael Newman, Judge).

The department removed the parents’ child, A, when she was two days old. Thereafter, the juvenile court asserted jurisdiction and ten months later, the juvenile court changed A’s permanency plan from reunification to adoption. The department filed petitions to terminate the parents’ parental rights, while both parents appealed from the permanency judgment. The Court of Appeals affirmed. After the passage of another year, the juvenile court held another permanency hearing as required by ORS 419B.470(6). At the conclusion of that hearing, the court entered a permanency judgment continuing A’s permanency plan of adoption. Both parents appealed from that judgment.

In the meantime, while the parents appeal from the second permanency judgment was pending, the juvenile conducted a 12-day trial on the TPR petitions and terminated both parents’ parental rights. Five months after the juvenile court entered the judgments terminating the parents’ parental rights, the Court of Appeals issued its opinion reversing the second permanency judgment. It did so because the juvenile court had neglected to include the “compelling reasons” determinations required by ORS 419B.476(5)(d) and ORS 419B.498(2)(b).

After the Court of Appeals reversed the permanency judgment, the parents moved the juvenile court to vacate the judgments terminating their parental rights arguing that because the permanency judgment was invalid, the termination petitions and subsequent TPR judgments were invalid by operation of law. The juvenile court agreed and vacated the TPR judgments. The department and A appealed arguing that no provision of the juvenile code supported the contention that a “valid” permanency judgment was a necessary predicate to the termination of a
parent’s parental rights. Reasoning that the validity of the juvenile court’s most recent permanency judgment is dispositive of the juvenile court’s authority to terminate a parent’s parental rights, the Court of Appeals affirmed:

“DHS’ first argument on appeal is that, even if an earlier permanency judgment continuing a case plan of adoption is reversed on appeal, nothing in the juvenile code or, more specifically, the statutes governing termination of parental rights proceedings (ORS 419B.500 to 419B.524), ‘makes a permanency judgment changing a child’s case plan to adoption a necessary predicate for terminating parental rights.’ That is, DHS argues that a termination of parental rights proceeding is separate from the underlying juvenile dependency case, and nothing in ORS 419B.500 to 419B.524 requires a ‘valid’ permanency judgment before parental rights may be terminated.

'* * * * *

“Thus, the juvenile court must consider the circumstances at the time of the permanency hearing to determine whether DHS made reasonable efforts to place the ward in accordance with the plan, in an effort to move toward the goal of permanent placement for the child. In cases such as this, where the case plan at the time of the hearing is adoption, the term ‘reasonable efforts’ denotes ‘DHS’s reasonable efforts to find a[an adoptive] placement for the child.’ Dept. of Human Services v. C.L., 254 Or App 203, 2011-12, 295 P3D 72 (2012), rev den, 353 Or 445 (2013).

'* * * * *

“Thus, in a case such as this, the court must enter an order within 20 days after each permanency hearing that is held pursuant to ORS 419B.470, and make specific findings in the order, including (1) the court's determination whether, considering circumstances at the time of the hearing, DHS has made reasonable efforts to find the child an adoptive placement, (2) the court's determination that the permanency plan should change to or remain adoption and, having made that determination, (3) whether and when the child will be placed for adoption and the petition for termination of parental rights filed. ORS 419B.476(5)(b)(B). The court must also make a related determination: ‘whether one of the circumstances in ORS 419B.498 (2) is applicable[.]’ ORS 419B.476(5)(d).

“The requirement in ORS 419B.476(5) that the juvenile court make the determination under ORS 419B.498(2) after a permanency hearing reflects that ‘the legislature has expressed its intent that the trial court carefully evaluate DHS’s decision to change a permanency plan for a child in order to ensure that the decision is one that is most likely to lead to a positive outcome for the child.’ State ex rel DHS v. M.A. (A139693), 227 Or App 172, 183, 205 P3d 36 (2009). That ‘child-centered * * * determination’ under ORS 419B.498(2) requires the court to determine ‘whether it is in the child's best interests not to file a petition
for termination because the child can be returned home within a reasonable time.’
C. L., 254 Or App at 214, 295 P3d 72 (emphasis added). We apply that principle
to permanency hearings regardless of whether the juvenile court changes or
maintains a permanency plan. * * *

"* * * * *

"To ensure that the careful evaluation of the child's permanency plan
occurs after each hearing, we have held invalid permanency judgments that lacked
the findings and determinations required by ORS 419B.476(5), regardless of
whether the court was changing or maintaining a permanency plan. Dept. of
litany of cases in which permanency judgments have been reversed and remanded
based on the lack of the required findings under ORS 419B.476(5)); see, e.g., T.
H., 254 Or App at 400, 294 P3d 531 (reversing permanency judgment that
continued the permanency plan of another planned permanent living arrangement
because it lacked the findings under ORS 419B.476(5)(a) and (f)); Dept. of
Human Services v. L. B., 246 Or App 169, 175, 265 P3d 42 (2011) (reversing
permanency judgments that changed the children's permanency plans to adoption
because the judgments did not include findings required by ORS 419B.476(5)(d)
and ORS 419B.498(2)(b); explaining that reversal was required because ‘the
legislature has manifested its intent that a juvenile court expressly connect all of
the dots along the way to a change in the permanency plan’)."

"Thus, ORS 419B.470 and ORS 419B.476(5) require that the juvenile
court conduct permanency hearings at regular intervals, potentially holding
multiple permanency hearings over the course of a dependency case. The
requirements in ORS 419B.476(2)(b) and ORS 419B.476(5) that the juvenile
court consider the child's circumstances at the time of the hearing relating to
findings and determinations of the permanency plan indicate that those specific
findings are required after each permanency hearing held by the juvenile court, to
capture the child's current circumstances, regardless of whether the juvenile court
changes or maintains a permanency plan.

"* * * * *

"To further ensure that the juvenile court carefully evaluates a child's
permanency plan at the permanency hearing stage before it can order DHS to
move forward with the termination-of-parental-rights process, we have interpreted
ORS 419B.498(3) to mean that the juvenile court's ‘approval of a permanency
plan of adoption is a precondition to the filing of a termination petition.’ State v.
L. C., 234 Or App 347, 357, 228 P.3d 594 (2010), rev dismissed, 349 Or 603, 249
P3d 124 (2011) (emphasis added) (discussing ORS 419B.498(3) and holding that
the court erred in changing the permanency plan to adoption and, based on that
error, also erred by ordering DHS to file a petition to terminate the father's and the
mother's parental rights); accord Dept. of Human Services v. W.H.F., 254 Or App
(explaining that, in the event of a reversal of a permanency judgment continuing a permanency plan of adoption—based on a lack of statutorily required findings—that reversal of the permanency judgment ‘would invalidate the subsequent termination judgment’). But see State ex rel Dept. of Human Services v. J. S., 225 Or App 115, 135, 200 P3d 567, rev den, 346 Or 157 (2009) (declining to exercise discretion to review as plain error and correct juvenile court’s error in holding termination hearing without having held permanency hearing, based on the children’s interests, lack of harm demonstrated by parents, and higher substantive and procedural standards that occurred in termination hearing).

“The legislative history of ORS 419B.498(3) supports that interpretation. Senator Kate Brown, one of the proponents of Senate Bill (SB) 408 (2007), which later became ORS 419B.498(3), stated that the purpose of adding subsection (3) to ORS 419B.498 was to ‘prohibit[ ]DHS from filing a petition to terminate parental rights for the sole reason that the child has been in substitute care for 15 of 22 months unless the court has previously determined that the plan for the child should be adoption’ and to ensure that TPR petitions are not filed in cases in which no adoptive resources had been or are likely to be identified by DHS. Audio Recording, House Committee on Judiciary, SB 408, May 2, 2007, at 20:38 (statement of Senator Kate Brown), https://olis.leg.state.or.us (accessed Oct 7, 2014) (emphasis in original).

“Given that backdrop, we readily reject DHS’s first assertion that, even if an earlier permanency judgment continuing a case plan of adoption is reversed on appeal, nothing in the juvenile code or, more specifically, the statutes governing termination of parental rights proceedings (ORS 419B.500 to 419B.524), ‘makes a permanency judgment changing a child’s case plan to adoption a necessary predicate for terminating parental rights.’ DHS’s argument, based on ORS 419B.500 to ORS 419B.524, expressly ignores important context relating to termination proceedings, namely ORS 419B.498(3). That statute was enacted to ensure that DHS could not move forward with the termination-of-parental-rights process unless the juvenile court had made the ‘careful evaluation’ of the permanency plan, and that, the juvenile court’s ‘approval of a permanency plan of adoption is a precondition to the filing of a termination petition.’ L.C., 234 Or App at 357, 228 P3d 594 (emphasis added).

"***"
impose a plan in the first instance. * * * The need to ‘carefully evaluate’ the situation is the same.’ T. H., 254 Or App at 400, 294 P3d 531.

“In deciding the parents' ORS 419B.923 motion to set aside the TPR judgments, the court determined that, based on the circumstances of this case, our holding in M.H. required that it set aside the judgments. The juvenile court did not err. A.D.G., 260 Or App at 534, 317 P3d 950.”

M.H., 266 Or App at 365-73 (emphasis in original) (footnotes omitted).


In 2011, the juvenile court asserted jurisdiction over the mother’s two children, who were placed in foster care. In September 2012, the mother, represented by counsel, appeared for a hearing regarding the termination of her parental rights. At that time, DHS had identified the foster parents as the children’s adoptive placement. During a break early in the hearing, mother met with her attorney, the department’s attorney, the department’s caseworker, the children’s Court Appointed Special Advocate (CASA) and the children’s attorney. Ultimately, mother and the foster parents agreed to mediation regarding post-adoption communication and visitation rights, and mother signed a relinquishment of her parental rights along with a certificate of irrevocability for both of children.

The mediation process did not go smoothly, and in May 2013, mother filed a motion to set aside the relinquishments and to stay the adoption proceedings, and requested a trial on the petition to terminate her parental rights. Mother included with the motion her affidavit, in which she stated that she believed that her “signature was entered under duress and was not freely, voluntarily, and intelligently given.” Mother’s attorney moved to withdraw, citing a breakdown in the attorney-client relationship and an “irresolvable ethical conflict” because the state had advised that it intended to call the attorney as a witness at the hearing on mother’s motion.

At the hearing, the juvenile court questioned mother’s attorney and the attorney informed the court that the basis for mother’s motion was that she was “coerced.” When the court asked mother whether she would allow her attorney to “disclose details,” mother did not answer but asked to read aloud a letter she had written to the court. The court read the letter and asked mother why she felt pressured or coerced. Mother responded, in part, that “she felt that her attorney had misinformed her and was not forthcoming about the circumstances of the mediation process.” The juvenile court denied the mother’s motion.

Mother appealed, arguing that “the lack of adequate counsel to assert the issue of duress deprived her of her due process right to a fundamentally fair hearing” on her motion to set aside the relinquishments. Concluding that the hearing on mother’s motion to set aside the relinquishments was not fundamentally fair because the mother was denied the right to counsel, the Court of Appeals reversed:

“The court’s denial of mother’s motion to set aside the relinquishments implicated mother’s parental rights: it left in place the surrender of parental
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rights, allowing mother only minimal or no contact with children as determined by a mediation agreement that she contends is not what she agreed to when she signed the relinquishments. Because the relinquishments were signed in lieu of continuing with the termination of parental rights hearing, her interest in determining whether the relinquishments were voluntarily given required the procedural safeguard of attorney assistance. Without that assistance, mother was left to represent herself. Her self-representation calls into question whether the facts and legal arguments relevant to her claim of duress were properly presented to the court. That situation indicates that mother did not have ‘the opportunity to be heard at a meaningful time and in a meaningful manner.’ We therefore conclude that, in those circumstances, the determination of mother’s motion to set aside the relinquishments was made without the procedural protections required for a fundamentally fair hearing.”

VII. Other issues

1. Pending criminal charges against a parent as a basis to find good cause to continue a jurisdictional hearing beyond the 60 days required by ORS 419B.305(1)


Parents appealed a judgment following an amended petition for jurisdiction. They argued, in part, that their attorney’s performance was inadequate because counsel failed to move for a quick hearing on the original petition. The Court of Appeals rejected that argument, finding that there was “a reasonable explanation for the delay” because “[d]uring that time, there were criminal charges pending against parents relating to their treatment of the children.”


Mother appealed from a dispositional order requiring her to complete a polygraph test. She argued that the requirement violated Fifth Amendment’s protection against self-incrimination. The Court of Appeals agreed, but it went on to discuss ways by which a trial court could accommodate a parent’s Fifth Amendment rights in a dependency proceeding. The court noted, “continuing a dependency proceeding until after the conclusion of a criminal case is not palatable for the obvious reason that prompt disposition of child dependency proceedings is essential.” The court went on to suggest a “practical solution” of a grant of immunity.

2. Vouching

There are numerous cases—too many to easily recount in these materials—discussing vouching and to what extent appellate courts will consider a claim of error based on the admission of vouching testimony even when the appellant failed to object to that testimony below. One recent case contains a helpful discussion.

In considering whether to exercise its discretion to review an unpreserved claim that the trial court erred in admitting vouching testimony, the Court of Appeals explained the difference between “true vouching” and other types of vouching:

Each of the cases in which we have held that a trial court should have excluded evidence sua sponte (perhaps necessarily suggesting that the court also has a sua sponte obligation to interrupt a lawyer's questions that seek to elicit such testimony) has involved true “vouching” evidence, that is, one witness’s testimony that he or she believes that another witness is or is not credible, which a party offers to bolster or undermine the veracity of that other witness. See, e.g., State v. Higgins, 258 Or App 177, 308 P3d 352 (2013), rev'd, 354 Or 700 (2014) (plain error for trial court not to exclude mother's testimony that she “knew for sure” that her daughter was not lying when the daughter said that the defendant had raped her); B.A., 253 Or App at 10-17 (plain error for trial court not to exclude testimony from mental-health professionals that the plaintiff’s reports of abuse were credible); State v. Lowell, 249 Or App 364, 366-67, 277 P3d 588, rev'd, 352 Or 378 (2012) (trial court plainly erred by allowing a detective to comment directly on the defendant's credibility by stating that he did not think the defendant “was being very honest and upfront” and that, based on his classroom training and experience, he understood the defendant’s statements to be of a type that indicates “that somebody is not being truthful”). That kind of testimony impermissibly “invade[s] the jury's role as the sole judge of the credibility of another witness.” State v. Charboneau, 323 Or 38, 47, 913 P2d 308 (1996). Often, it creates a “risk that the jury will not make its own credibility determination, which it is fully capable of doing, but will instead defer” to an expert’s opinion on that point. State v. Southard, 347 Or 127, 141, 218 P3d 104 (2009).

The admission of impermissible vouching testimony is not harmless merely because the case was tried to the court rather than to a jury. State v. Davilia, 239 Or App 468, 476-78, 244 P3d 855 (2010).
Chapter 4

Crossover Youth Practice Model: Improving Outcomes for Youth in the Child Welfare and Juvenile Justice Systems—Presentation Slides

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CROSSOVER YOUTH PRACTICE MODEL (CYPM):
IMPROVING OUTCOMES FOR YOUTH IN THE CHILD WELFARE AND JUVENILE JUSTICE SYSTEMS

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Objectives

- To provide an overview of the Crossover Youth Practice Model (CYPM)
- To describe the implementation of CYPM in Multnomah County
- To share “lessons learned” and implications for future work
The Practice Model Guide

Detailed (121 pages) guide describing the research, the model overview and goals, implementation, and outcomes can be found at:

http://cjjr.georgetown.edu/pdfs/cypm/cypm.pdf

What is CYPM?

- A partnership between Casey Family Programs and Georgetown’s Center for Juvenile Justice Reform (CJJR) started in 2007
- A model describing specific practices that are required in order to improve outcomes for youth involved in both the CW and JJ systems
- Based on cumulative and growing body of research
- Provides a mechanism for jurisdictions to strengthen organizational structure and implement or improve practices that directly affect outcomes
Who are Crossover Youth?

- **Crossover Youth**: any youth who has experienced maltreatment and engaged in delinquency
- **Dually-Involved Youth**: a subgroup of crossover youth who are simultaneously receiving services, at any level, from both the CW and JJ systems
- **Dually-Adjudicated Youth**: a subgroup of dually-involved youth encompassing only those who are currently adjudicated by both the CW and JJ systems

Why Does it Matter?

- General delinquency research shows that childhood abuse (physical and sexual) is often associated with delinquency and that the early onset of maltreatment may increase the variety, seriousness, and duration of problems.¹ Additionally, there is an increased risk for mental health concerns (suicide attempts and post-traumatic stress disorder), educational problems (extremely low IQ scores and reading ability), occupational difficulties (lack of work, high rates of unemployment, and employment in low-level service jobs), and public health and safety issues (prostitution in males and females and alcohol problems in females).²

² Ibid.
Why Does it Matter?

• At least five studies have examined crossover youth characteristics (Herz & Ryan 2008b; Widom & Maxfield 2001; Halemba, Siegel, Lord, & Zawacki 2004; Kelley, Thornberry, & Smith 1997; Saeturn & Swain, 2009).

• Although these studies are not identical in their methodology, they all examine characteristics of crossover youth and report a tremendous amount of similarity.

• All provide evidence that childhood abuse and neglect are associated with an increased risk of crime and violence; it is important to highlight though that this relationship is neither inevitable nor deterministic.

Why Does it Matter?

• Among crossover youth, there is a high prevalence of a family history of criminal behavior, mental health, and/or substance abuse problems.

• Crossover youth are often exposed to domestic violence (70% in Halemba et al).

• During their time in care, crossover youth experience numerous placements, often resulting in one or more placements in congregate care.

  (NOTE: at least one-third of arrests for crossover youth are related to their placement, and most of these situations occur in a group home placement - this finding was specific to Herz & Ryan, 2008 and Saeturn & Swain, 2009)

• Overall, crossover youth appear to enter the system when they are young children and remain in the system into (and sometimes through) adolescence.
How Many Cross Over?

In overall juvenile justice populations, the percentage ranges from 17% to 67% across studies.

Rates of dual-involvement seem related to how deeply a youth penetrates the juvenile justice system.

Results Taken from Arizona—Halemba et al., 2004
Research on Crossover Youth

- Often in the CW system for long periods of time
- More likely to be female than the general delinquency population
- Youth of Color (particularly African American) are overrepresented
- Most have been placed out of the home, often experiencing numerous placements including multiple placements in congregate care
- Often truant and/or performing poorly at school

More than half of crossover youth are detained prior to adjudication

Crossover youth are perceived as being higher risk by juvenile justice decision-makers and receive harsher dispositions than their non-crossover counterparts
Goals of CYPM

Overall Goals:

- A reduction in the number of youth placed in out-of-home care
- A reduction in the use of congregate care
- A reduction in the disproportionate representation of children of color
- A reduction in the number of youth becoming dually-adjudicated

Interim Outcome Measures (to support achievement of Overall Goals)

- A reduction in the number of youth re-entering child welfare from juvenile justice placements
- A reduction in the penetration of juvenile justice by foster youth
- A reduction in the use of out-of-home placements
- A reduction in the use of pre-adjudication detention
- A reduction in the rate of recidivism
- An increase in the use of interagency information sharing
- An increase in the inclusion of family voice in decision making
- An increase in youth and parent satisfaction with the process
- An increase in the use of joint assessment
Practice Model Values/Principles

1. We serve every child individually based on their history and experiences, seeking to achieve a sense of normalcy for all youth on a daily basis.

2. We believe the most advantageous place for youth to grow up is in their own family. We seek to ensure all youth are provided a safe, nurturing and permanent family environment and community. When immediate family is not available, other viable extended family and community resources will be identified.

Practice Model Values/Principles

3. We believe that youth and families have strengths, and systems must learn about and use those strengths in order to effectively meet their needs. We ensure that these strengths are being utilized to address the entire context of youth and family functioning.

4. We ensure authentic, intentional, and meaningful involvement of youth and families in policy and practice development, service planning and delivery.
Practice Model Values/Principles

5. We use an **integrated approach** between juvenile justice, child welfare, the courts, education, and behavioral health, believing that **partnerships** are the best way to meet the needs of crossover youth and their families.

6. Our practices guarantee **fair and equitable** treatment for all youth and families, regardless of race, ethnicity, and national origin. Service delivery **honors and respects** the beliefs and values of all families.

Practice Model Values/Principles

7. We actively seek to **reduce racial disproportionality** and **eliminate disparities** within the child welfare and juvenile justice systems.

8. We provide opportunities for **professional development** and ensure adequate supervision for all staff. This is essential in ensuring workforce efficacy.

9. We ensure that policy and practice decisions are based on **reliable data and evidence**.
Practice Model Values/Principles

10. When out-of-home placement is necessary, it should be time limited, in the least restrictive environment with appropriate supports, while maintaining a focus on youth permanence.

These principles guide all policies, programs, practices, services, and supports conducted within the practice model.

The Culture Change

“Playing in each other’s sandbox”

Juvenile Justice wants to hold parent accountable

Child Welfare wants to hold youth accountable
Phases and Practice Areas

- **Phase I:**
  - Practice Area I: Arrest, Identification and Detention
  - Practice Area II: Decision-Making Regarding Charges

- **Phase II:**
  - Practice Area III: Case Assignment, Assessment, Planning

- **Phase III:**
  - Practice Area IV: Coordinated Case Supervision
  - Practice Area V: Planning for Permanency, Transition and Case Closure

What Model Requires of Sites

Each Phase requires implementation of specific practices. **Examples:**

- Protocols in place for identifying crossover youth
- MOA describes how agencies will share information
- CW caseworker to attend JJ hearing and vice versa
- Workers maintain communication and share case planning – meet w/family together early on
- Consolidated court processes (using dedicated dockets, one judge/one family model, or pre-court coordination model)
Multnomah County Implementation

- Began in 2010
- Judge Nan Waller as “champion”
- Targeted dually-involved youth/families
- Significant turnover in key leadership positions hampered implementation
- Renewed commitment by leadership got implementation back on track
- Now fully implemented and mentoring Washington County

Multnomah County Implementation

- Approximately 50 youth identified at any given time
- Majority of youth begin in child welfare and cross over into juvenile justice
- Approximately 10% placed in DHS custody as a result of delinquency (SO’s and CSEC)
- Girls and African American youth are over-represented in the CYPM population
- Evaluating fidelity to the model
What Does it Look Like?

**CROSSOVER YOUTH**

- Youth enters court system
- Data Services reviews for possible crossover
- Records indicate that it is possibly a crossover youth
- Data Services tells DHS Liaison possible crossover

What Does it Look Like?

- DHS Liaison reviews case in OR Kids
- Records indicate that it is a crossover youth
- DHS Liaison sends an email to JCC & Case worker & add to crossover list
What Does it Look Like?

- Increasing awareness of crossover youth:
  - Yellow folders for judges
  - Judicial expectations
  - Worker checklist
Lessons Learned

- **Infrastructure**
  - Agency leadership fully understands the model and is actively engaged in ensuring its success
  - Leaders seen as supporting the implementation
  - Mid-level managers and supervisors from both systems must be fully supportive and committed to helping staff make practice changes required
  - Leaders must reinforce with staff the need for change in this practice area and how it relates to overall positive outcomes for youth and families

Lessons Learned

- **Data**
  - Barriers to information sharing must be eliminated
  - Baseline and outcome measures must be tracked and that data should then be used to demonstrate the impact of system integration
  - Highly recommended that data elements are able to be captured electronically
  - Line staff and supervisors need access to cross-system information and should not be expected to enter data into multiple systems
Lessons Learned

- **Messaging**
  - Leaders from both agencies must speak with one voice, ensuring the consistency of the message.
  - Messaging has to build on the current work of staff – not dismiss past practice as being flawed or inferior.
  - There must be a focus on the fact that practice is evolving as new data is being released regarding crossover youth and their families.
  - Messaging has to impress upon the field that this is a long-term commitment by the agency and that it does not expect them or the systems to change overnight.

- **Training**
  - Trainers must have credibility and experience with the new tools and processes.
  - Training must be provided in phases – allowing staff to gain skills and confidence in an area prior to full implementation.
  - Training should include utilization of staff case examples that create opportunities for learning and knowledge transfer.
  - Training must be ongoing and incorporated into new employee training.
Lessons Learned

- **4 Critical Leadership Characteristics**
  - Leaders see the practice model as an overarching mandate for the way the agency will interact with youth and families.
  - Leaders can describe in specific ways how the practice model influences daily decisions in leadership.
  - Leaders regularly assess the impact of the practice model on outcomes for youth and families.
  - Leaders monitor the use of the practice model and hold staff accountable for its consistent application.

Next Steps

- Move from assessing fidelity to analyzing outcomes for CYPM youth and families
- Enhance staff skill and improve quality of combined family meetings
- Identify opportunities for prevention (focus on siblings of CYPM-identified youth)
- Provide opportunities for ongoing training and relationship building
Chapter 5

Oregon Youth Authority: Connecting Youth with Appropriate Programs—Presentation Slides

MARGARET BRAUN
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Salem, Oregon

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Salem, Oregon

JOSEPH O’LEYAR
Oregon Youth Authority
Salem, Oregon
Oregon Youth Authority

The **mission** of the Oregon Youth Authority is to protect the public and reduce crime by holding youth offenders accountable and providing opportunities for reformation in safe environments.

The **vision** of the Oregon Youth Authority is that youth who leave OYA go on to lead productive, crime-free lives.
Youth served by OYA

Youth under OYA community supervision

901

Youth under OYA close-custody supervision

295 DOC

318 OYA

...1,514 total youth under OYA supervision

Oregon’s Juvenile Justice System

389,067 youth in Oregon ages 10-17

15,041 total youth referred

9,784 youth referred for criminal offenses

3,312 adjudicated delinquent

2,807 youth placed under formal county supervision

502 youth committed to OYA

195 youth committed as juveniles to OYA close custody

307 youth placed on probation under OYA supervision

382 youth released to parole under OYA supervision

99 transferred to adult court or waived

88 youth committed as adults and placed in OYA close custody

Source: JJS data for admissions in 2013
Youth Profile: Demographics

Race/Ethnicity
- Caucasian: 58%
- Hispanic: 25%
- African American: 9%
- Asian: 2%
- Native American: 4%
- Other/Unreported: 2%

Gender
- Male: 87%
- Female: 13%

Age
- 16 thru 17: 34%
- 18 thru 20: 41%
- 21+: 12%

Youth Profile: Offense of Commitment

Male Youth
- Sex Offense: 34%
- Property: 29%
- Other: 11%
- Robbery: 7%
- Person: 17%
- Homicide Related: 1%
- Weapon, Other Criminal: 3%

Female Youth
- Sex Offense: 34%
- Property: 31%
- Other: 25%
- Person: 31%
- Homicide Related: 2%
- Weapon, Other Criminal: 2%
Youth Profile: Social Characteristics

<table>
<thead>
<tr>
<th>PERCENT MALES</th>
<th>CATEGORY</th>
<th>PERCENT FEMALES</th>
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<tr>
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<td>Abused Alcohol or Drugs</td>
<td>81</td>
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<tr>
<td>58</td>
<td>Parents Abused Alcohol or Drugs</td>
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<td>40</td>
<td>Diagnosed Mental Health Disorder Other than Conduct Disorder</td>
<td>65</td>
</tr>
<tr>
<td>48</td>
<td>Diagnosed Conduct Disorder</td>
<td>40</td>
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<tr>
<td>14</td>
<td>Sexually Abused</td>
<td>37</td>
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<td>29</td>
<td>Special Education</td>
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<td>6</td>
<td>Past Suicidal Behavior</td>
<td>21</td>
</tr>
<tr>
<td>14</td>
<td>Youth is a Parent</td>
<td>10</td>
</tr>
</tbody>
</table>

Key Initiatives

We believe in the human capacity to change, that every person matters, and every interaction is an opportunity for positive intervention. This is especially true for our youth. Every youth deserves to be supported, strengthened, and successful.

We foster this through a culture of

Positive Human Development (PHD)

and the Youth Reformation System (YRS)
OYA Feeder System Study

- Social services and the criminal justice system serve similar (often the same) populations
  - E.g., Crossover youth, dual-involved mental health and substance abusing populations
- Costs of services increase as people move “deeper” into the system
  - Previous contacts with various services may be missed opportunities for prevention
- Move resources from later systems to earlier services to prevent criminal behavior
Data Sources

- DHS/OHA*
  - Medical Assistance (e.g., OHP, CHIP)
  - Self-Sufficiency (e.g., SNAP, TANF)
  - Child Welfare (Substantiated abuse, Foster Care)
  - Alcohol and Drug Treatment Services
  - Mental Health Treatment Services
- Oregon Youth Authority (Probation, close custody commitment, parole)*
- County Juvenile Departments
- Employment Department (Wages, hours, industry)
- Department of Education (Special education, attendance, discipline)
- Oregon State Police (Arrests)
- Oregon Department of Corrections (Probation, incarceration, parole)

Analyses so far...

- Study 1
  - A preliminary, exploratory analysis of DHS and OHA service utilization for youth committed to OYA

- Study 2
  - Comparison of OYA youth from Study 1 to a randomly selected group of individuals who were not committed to OYA
Study 1: Sample

- 10,017 youth committed to OYA probation or close custody from Jan. 2000 to July 2013
- 83% Male, 17% Female
- Average age at commitment = 15.6 years, range = 12-19 years
- Race/Ethnicity
  - 66% Caucasian
  - 19% Hispanic/Latino
  - 8% African American
  - 4% Native American
  - 1% Asian
  - 1% Other/Unknown
- Commitment Type
  - 57% OYA Probation
  - 28% OYA Close Custody
  - 15% DOC Close Custody
- Average risk of recidivism (ORRA) = 24.6%, range = 2.4%-98.4%
- Average risk of violent recidivism (ORRA-V) = 15.4%, range = 1.9%-81.8%

Study 1: Program Involvement Prior to Commitment

- 90% of sampled youth accessed one or more programs at least once prior to OYA commitment
Study 1: Average time between program and OYA

- Alcohol & Drug Treatment Services
- Mental Health Treatment Services
- Medical Assistance
- Foster Care
- Self-Sufficiency
- Child Protective Services

Years to OYA Commitment

Study 1: Average age at first program involvement

- Self-Sufficiency: 10 years
- Foster Care: 10 years
- Medical Assistance: 10 years
- Mental Health Treatment Services: 11 years
- Child Protective Services: 12 years
- Alcohol & Drug Treatment Services: 15 years

OYA Commitment

Years to OYA Commitment
### Study 1: Program access by commitment type

<table>
<thead>
<tr>
<th></th>
<th>Medical Assistance</th>
<th>Self-Sufficiency</th>
<th>Mental Health Treatment Services</th>
<th>A&amp;D Treatment Services</th>
<th>Child Protective Services</th>
<th>Foster Care</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>OYA Probation</strong></td>
<td>61%†</td>
<td>60%†</td>
<td>60%†</td>
<td>63%†</td>
<td>59%nd</td>
<td>53%</td>
</tr>
<tr>
<td><strong>OYA Close Custody</strong></td>
<td>27%nd</td>
<td>26%−</td>
<td>30%†</td>
<td>28%nd</td>
<td>30%†</td>
<td>38%†</td>
</tr>
<tr>
<td><strong>DOC Close Custody</strong></td>
<td>12%</td>
<td>13%−</td>
<td>10%−</td>
<td>9%−</td>
<td>11%−</td>
<td>9%</td>
</tr>
</tbody>
</table>

*Proportion who accessed program is larger than expected; †Proportion who accessed program is smaller than expected. **No difference between proportion expected to access program and proportion that indeed accessed program.

### Study 1: Program access by males and females

<table>
<thead>
<tr>
<th></th>
<th>Medical Assistance</th>
<th>Self-Sufficiency</th>
<th>Mental Health Treatment Services</th>
<th>A&amp;D Treatment Services</th>
<th>Child Protective Services</th>
<th>Foster Care</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Male</strong></td>
<td>82%−</td>
<td>82%nd</td>
<td>80%−</td>
<td>79%−</td>
<td>75%−</td>
<td>75%</td>
</tr>
<tr>
<td><strong>Female</strong></td>
<td>18%†</td>
<td>18%†</td>
<td>20%†</td>
<td>21%†</td>
<td>25%†</td>
<td>25%†</td>
</tr>
</tbody>
</table>

*Proportion who accessed program is larger than expected; †Proportion who accessed program is smaller than expected. **No difference between proportion expected to access program and proportion that indeed accessed program.
Study 1: Program access by race/ethnicity

<table>
<thead>
<tr>
<th></th>
<th>Caucasian</th>
<th>Hispanic/Latino</th>
<th>African American</th>
<th>Native American</th>
<th>Asian</th>
<th>Other/Unknown</th>
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</thead>
<tbody>
<tr>
<td>Medical Assistance</td>
<td>65%&lt;sup&gt;nd&lt;/sup&gt;</td>
<td>64%&lt;sup&gt;*&lt;/sup&gt;</td>
<td>69%&lt;sup&gt;+&lt;/sup&gt;</td>
<td>65%&lt;sup&gt;nd&lt;/sup&gt;</td>
<td>67%&lt;sup&gt;nd&lt;/sup&gt;</td>
<td>68%&lt;sup&gt;nd&lt;/sup&gt;</td>
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<td>Self-Sufficiency</td>
<td>19%&lt;sup&gt;nd&lt;/sup&gt;</td>
<td>19%&lt;sup&gt;nd&lt;/sup&gt;</td>
<td>15%&lt;sup&gt;+&lt;/sup&gt;</td>
<td>20%&lt;sup&gt;nd&lt;/sup&gt;</td>
<td>17%&lt;sup&gt;+&lt;/sup&gt;</td>
<td>14%&lt;sup&gt;+&lt;/sup&gt;</td>
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<td>9%&lt;sup&gt;+&lt;/sup&gt;</td>
<td>10%&lt;sup&gt;+&lt;/sup&gt;</td>
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<td>5%&lt;sup&gt;+&lt;/sup&gt;</td>
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<td>Child Protective Services</td>
<td>1%&lt;sup&gt;nd&lt;/sup&gt;</td>
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</table>

*Proportion who accessed program is larger than expected; * Proportion who accessed program is smaller than expected.
**No difference between proportion expected to access program and proportion that indeed accessed program.

Study 1: Program access by risk level

<table>
<thead>
<tr>
<th></th>
<th>Medical Assistance</th>
<th>Self-Sufficiency</th>
<th>Mental Health Treatment Services</th>
<th>A&amp;D Treatment Services</th>
<th>Child Protective Services</th>
<th>Foster Care</th>
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<tbody>
<tr>
<td>ORRA</td>
<td>.027**</td>
<td>.036**</td>
<td>.012&lt;sup&gt;ns&lt;/sup&gt;</td>
<td>.259**</td>
<td>-.027**</td>
<td>.046**</td>
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<tr>
<td>ORRA-V</td>
<td>.025*</td>
<td>.031**</td>
<td>.028**</td>
<td>.165**</td>
<td>-.003&lt;sup&gt;ns&lt;/sup&gt;</td>
<td>.074**</td>
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</table>

* p <.05; ** p <.01; * No statistical significance
Study 2: Sample

- Sample size = 18,152
  - 9,076 youth committed to OYA between January 2000 and July 2013
  - 9,076 non-OYA individuals randomly selected from DHS/OHA client records
- Involved with at least one DHS/OHA program area prior to the study end date
  - OYA youth: Date of OYA commitment
  - Comparison group: Date of 19th birthday

<table>
<thead>
<tr>
<th></th>
<th>OYA Youth</th>
<th>Comparison Group</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sex</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Male</td>
<td>7,480</td>
<td>4,519</td>
</tr>
<tr>
<td>Female</td>
<td>1,596</td>
<td>4,557</td>
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<tr>
<td><strong>Race/Ethnicity</strong></td>
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<tr>
<td>Caucasian</td>
<td>6,400</td>
<td>5,622</td>
</tr>
<tr>
<td>Hispanic/Latino</td>
<td>1,440</td>
<td>1,116</td>
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<tr>
<td>African American</td>
<td>726</td>
<td>326</td>
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<td>Native American</td>
<td>329</td>
<td>247</td>
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<tr>
<td>Asian</td>
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<td>214</td>
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<td>Other/Unknown</td>
<td>101</td>
<td>1,503</td>
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OYA youth are involved with different programs...

<table>
<thead>
<tr>
<th>Differences in Program Involvement</th>
<th>Accessed program prior to study end date</th>
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<tr>
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<tr>
<td><strong>Self-Sufficiency</strong>*</td>
<td>13,617</td>
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<tr>
<td>OYA Youth</td>
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<td>Comparison Group</td>
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<td><strong>Medical Assistance</strong>*</td>
<td>7,525</td>
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<tr>
<td>OYA Youth</td>
<td>3,822</td>
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<td>Comparison Group</td>
<td>3,703</td>
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<td><strong>Mental Health Treatment Services</strong>*</td>
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<td>5,430</td>
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<td>1,813</td>
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<td><strong>Alcohol &amp; Drug Treatment Services</strong>*</td>
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<td>OYA Youth</td>
<td>3,963</td>
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<td><strong>Child Welfare: Child Protective Services</strong>*</td>
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<td>1,948</td>
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<td>Comparison Group</td>
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And more programs...

![Bar chart showing differences in program involvement between OYA Youth and Comparison Group.](chart.png)
Study 2: Probability of OYA commitment

<table>
<thead>
<tr>
<th>Variable</th>
<th>β</th>
<th>S.E.</th>
<th>Wald</th>
<th>df</th>
<th>Sig.</th>
<th>Odds ratio</th>
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<tbody>
<tr>
<td>Constant</td>
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<td>.06</td>
<td>517.59</td>
<td>1</td>
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<td>.04</td>
<td>13.20</td>
<td>1</td>
<td>.000</td>
<td>1.15</td>
</tr>
</tbody>
</table>

AUC = .81

Limitations to Interpretation

- Analyses do not include data from county juvenile departments
  - Cannot determine services that were prompted by local informal or formal supervision
- Overlapping time periods covered by each dataset
  - Medical Assistance & Self-Sufficiency: 2000-2010
  - A&D and Mental Health Treatment: 2000-2013
  - OYA: 2000-2013
- Not a prospective study, comparison is not perfect
- Overlap in delivery and receipt of programs creates difficulty when isolating independent effects of each program
Next Steps in Feeder System

• First study explored prevalence of social service utilization among OYA youth alone
  • Confirmed notion that opportunities for early intervention exist

• Second study identified specific areas that deserve further exploration and where interventions may best be targeted
  • Alcohol & Drug Treatment, Mental Health Treatment, and Foster Care

• Next analysis will incorporate more data and focus on individual and family-level characteristics related to the probability of OYA commitment

Youth Reformation System Tools

• OYA Recidivism Risk Assessment

  • Predicts the likelihood a youth will recidivate with a felony conviction or adjudication within 36 months of commitment to probation or release from OYA close custody

  • Uses Criminal History Data from the Juvenile Justice Information System
Youth Reformation System Tools

• Youth Typologies
  • Developed from the OYA Risk and Needs Assessment
  • Provides a comprehensive look at youth needs and protective factors
  • Used for treatment and caseplanning

Youth Reformation System Tools

• Predicted Success Rates
  • Estimates the likelihood that a youth will be successful (i.e., not recidivate with a felony within three years) if placed in different environments
    • OYA Youth Correctional Facilities
    • OYA community placements
    • County probation
  • Uses both risk and need data
Thank you!

Supporting the Oregon Youth Authority’s mission to protect the public and reduce crime by holding youth offenders accountable and providing opportunities for reformation in safe environments.