



# OREGON LAW COMMISSION

EXHIBIT: E  
OREGON LAW COMMISSION  
DATE: June 7, 2002  
PAGES: 3  
SUBMITTED BY: George Okulitch

245 WINTER STREET SE  
SALEM, OREGON 97301

PHONE 503-370-6973  
FAX 503-370-6998

Rep. Lane Shetterly, Chair  
Sen. Kate Brown, Vice-chair  
Mr. Steve Blackhurst  
Chief Justice Wallace P. Carson Jr.  
Mr. Jeff Carter  
Ms. Sandra Hansberger  
Prof. Hans Linde  
Mr. Gregory Mowe  
Attorney Gen. Hardy Myers  
Dean Symeon Symeonides  
Prof. Bernie Vail  
Prof. Dom Vetri  
Rep. Max Williams

Dean David R. Kenagy  
*Executive Director*  
Wendy J. Johnson  
*Asst. Executive Director*  
Rosalie M. Schele  
*Administrative Assistant*

Gregory A. Chaimov  
*Legislative Counsel*  
David Heynderickx  
*Deputy Counsel*  
Bill Taylor  
*Judiciary Counsel*  
Andrea B. Shartel  
*Judiciary Counsel*

# Juvenile Code Revision: Delinquency Petition Notification to Non-Custodial Parents Report

Prepared by  
George P. Okulitch  
Legislative Assistant to Senator Kate Brown  
Willamette University College of Law

From  
The Offices of the Executive Director  
David R. Kenagy  
and  
Assistant Executive Director  
Wendy J. Johnson

Draft  
June 7, 2002



The Oregon Law Commission  
is housed at the Willamette  
University College of Law,  
which also provides executive,  
administrative and research  
support for the Commission.



**Delinquency Petition Notification to Non-Custodial Parent**  
Report Prepared by:  
George P. Okulitch, Legislative Assistant to Senator Kate Brown

**Introduction**

Currently the Juvenile Code requires that the legal parents or guardians of a child receive notice of a delinquency matter being filed in juvenile court. Typically notice is given exclusively to the custodial parents and non-custodial parents are not provided the opportunity to be involved in the court process involving the child. If a non-custodial parent is notified, it is either by the good graces of the custodial parent or as an afterthought by someone in the juvenile court process.

There has not been an attempt to clarify in the delinquency section of the Juvenile code that both parents need to be located and notified of a pending petition. There has been a greater awareness of this need in the dependency area, but the same consideration has not been the practice in the delinquency area.

**History of the Project**

Kathie Osborn, a member of the Juvenile Code Revision Work Group, presented this law reform proposal to the full Commission on September 21, 2001. The Commission authorized the project at that meeting.

On March 15, 2002, the full Juvenile Code Revision Work Group approved the draft from Legislative Counsel (draft by Virginia Vanderbilt). The draft amends both ORS 419B.839 (dependency procedure provision) and ORS 419C.306 (delinquency summons provision). The amendments require notice to both legal parents in dependency and delinquency procedures.

**Proposal**

The Work Group's objective is twofold. The Group proposes to amend both ORS 419B.839 and ORS 419C.306 to include the notification of non-custodial parents in juvenile proceeding matters.

419C.306. is amended to read:

(1) The summons shall require the person or persons who have physical custody of the youth to appear personally and bring the youth before the court at the time and place stated in the summons. The time for the hearing on the petition shall be fixed at a reasonable time, not less than 24 hours, after the issuance of the summons. If it appears to the court that the welfare of the youth or of the public requires that the youth immediately be taken into custody, the court may indorse an order on the summons as provided in ORS 419C.080 (2) directing the officer serving it to take the youth into custody.

(2)(a) Summons shall be issued to [*the*] **each** legal [*parents*] **parent** of the youth, without regard to who has legal or physical custody of the youth, and to the legal guardians, if

any, of the youth.

(b) Parents or guardians summoned pursuant to paragraph (a) of this subsection shall appear personally pursuant to the summons. Following the initial appearance, parents or guardians shall appear as directed by the court.

(c) An employer may not discharge, threaten to discharge, intimidate or coerce any employee by reason of the employee's attendance at a juvenile court hearing as required under paragraph (a) of this subsection.

(d) This subsection shall not be construed to alter or affect an employer's policies or agreements with employees concerning employees' wages during times when an employee attends a juvenile court hearing under paragraph (a) of this subsection.

419B.839 is amended to read:

(1) Summons must be issued to be served on:

(a) [The] **Each** legal [parents] **parent** of the child without regard to who has legal or physical custody of the child;

(b) The legal guardian of the child; and

(c) A putative father of the child if he has provided or offered to provide for the physical, emotional, custodial or financial needs of the child in the previous six months or was prevented from doing so by the mother of the child.

(2) If the child is 12 years of age or older, summons must be issued to be served on the child.

(3) Summons must be issued to be served on the person who has physical custody of the child. The summons may require the person who has physical custody of the child to bring the child before the court at the time and place stated in the summons. If it appears to the court that the welfare of the child or of the public requires that the child immediately be taken into custody, the court may indorse an order on the summons directing the officer serving it to take the child into custody.

(4) Summons may be issued requiring the appearance of any person whose presence the court deems necessary.

### Conclusion

The draft is the result of the Oregon Law Commission's Juvenile Code Revision Work Group. The Work Group presents the two amendments to the Oregon Law Commission for recommendation to the 72<sup>nd</sup> Oregon Legislative Assembly.