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245 WINTER STREET SE
SALEM, OREGON 97301

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

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Termination Petition

REPORT

From
The Office of the Executive Director
David R. Kenagy

Prepared by
Julie McFarlane
Juvenile Rights Project

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is housed at the Willamette
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REPORT TO OREGON LAW COMMISSION
on
Proposed Changes to ORS 419B.350 and ORS 419B.343(2)(a)

I. Introduction

The Termination of Parental Rights Subcommittee proposed two minor changes to ongoing case processes to improve results at the termination phase.

A. Keeping parents' contact information updated.

The cases of children whom the state wishes to have adopted, are often delayed because of the necessity of searching for parents, who may have long been uninvolved in the child's life, in order to serve them with termination of parental rights petitions. These delays are harmful to the children who need to know where they will be growing up and need to be adopted while they are still young enough to be adoptable. Further, the searches and costs of service by publication, when parents cannot be found, are costly. The proposed amendment of ORS 419B.350 which follows is designed to help keep parents' contact information updated and would add a new section to ORS 419B.350:

(5) At any review conducted under ORS 419A.106 or at any court hearing, the court or local citizen review board shall inquire of those present as to the parents' current addresses, phone numbers and the name, current address and phone number of a contact person for each parent, if the parent has a contact person. Where appropriate the court may enter a protective order limiting disclosure of this information.

B. Codifying the letter of expectations.

The State Office for Services to Children and Families (SOSCF) is required by statute and policy to develop a service plan for each child in foster care. Parents are asked to participate in the development of the service plan and to sign a service agreement. If parents fail or refuse to sign the service agreement, SOSCF policy requires the agency to send a letter of expectations setting out what services the agency expects the parents to participate and the timeline in which services must be completed to make return of the child to the parents' home possible. SOSCF Policy I-B.3.1. The proposed amendment of ORS 419B.343(2)(a) encourages court hearings to resolve disputes over the service agreement so that cases may proceed without delay and would add three new subsection to ORS 419B.343(2)(a):

(i) If the parent claims to be unable or refuses to comply with the service agreement, and the parties are unable to resolve the disagreement, SOSCF shall take reasonable steps to provide the parent a letter clearly setting out what is expected of the parent to make return of the child possible.

(ii) If the parties agree, they may enter into mediation, if it is available, to resolve conflicts concerning the service agreement.

(iii) If within a reasonable time after providing the parent the letter clearly setting out what is expected of the parent, the parent continues to be unable or unwilling to comply with the expectations, SOSCF shall request that the court review and approve or disapprove the case plan.

II. History of the project.

The Workgroup on the Juvenile Code Revision identified the issue of whether termination of parental rights should be revised to be a motion within the dependency proceeding rather than a separate proceeding. A subcommittee attended by Timothy Travis, CRB, Esther Cronin, SOSCF, Ingrid Swenson, OCDLA, Diane Lancaster, SOSCF, Nancy Popkin, DDA - Multnomah County, Michael Livingston, AAG, Bill Taylor, Committee Counsel, and Julie McFarlane, JRP was appointed to study the issue and met on May 8, 2000. The subcommittee did not come to consensus and recommended that the workgroup take no further action on the issue of treating termination of parental rights as a motion rather than a separate proceeding. The subcommittee did propose two minor changes to improve handling of ongoing cases. Following review of the substance of the above proposals by the workgroup, the subcommittee met again to discuss placement in the code and specific language. The draft was reviewed by the workgroup on September 15, 2000 and some changes to the wording were made.

III. Conclusion.

These proposed amendments, improve the process for ongoing dependency cases and can easily be achieved within the current court, citizen review board and SOSCF structure.

Respectfully submitted,
Julie H. McFarlane, Senior Attorney
TPR Subcommittee Convenor