

Barbara J. Friesen
Kelly Blankenship
Michael Pullmann

*Research and Training Center
on Family Support and Children's Mental Health
Portland State University
P.O. Box 751
Portland, Oregon 97207-0751
Voice: 503-725-4040
Fax: 503-725-4180
friesenb@pdx.edu*

Linda Reilly
*Oregon Family Support Network
3668 SE Cooper St.
Portland, Oregon 97202
503-774-1824*

Judy Rinkin
*Crisis Management Institute
1305 Front Avenue NE
Albany, Oregon 97321
503-585-3484*

Implementation of an Oregon Law to Prevent the Transfer of Custody

In 1998, the Judge David L. Bazelon Center on Mental Health Law began a national study on the issue of families being forced to relinquish legal custody of their children with emotional, behavioral, or mental disorders and/or developmental or physical disabilities in order to receive needed services. The study was funded through a contract with the Center for Mental Health Services, a part of the Substance Abuse Mental Health Services Administration of the U.S. Department of Health and Human Services. As part of the larger study, the Bazelon Center contracted with the Research and Training Center on Family Support and Children's Mental Health to study the implementation of Oregon Revised Statute (ORS) 418.312, an Oregon law passed in 1993. This statute states that families cannot be forced to relinquish legal custody of their children when the sole purpose is to pay for services. The focus of this report is on children with physical, mental, or developmental disabilities. Oregon was chosen for this study because it provides an opportunity to examine the development and implementation of a legislative approach to the custody relinquishment issue. This presentation summarized the report, briefly describing the implementation of the law and the current state of the law in Oregon.

The sources of data for this study of the implementation of ORS 418.312 included a review of implementation strategies, interviews with key informants, telephone interviews with a random sample of State Office for Services to Children and Families (SCF)

caseworkers, and telephone interviews with a small number of families.

Findings

- ◆ Overall, the implementation of the Voluntary Child Placement Agreement (VCPA) and its companion “non-adversarial financial agreement” appears to need further attention. While administrative requirements, policy, forms, and procedures have all been implemented, direct practice with and knowledge of the VCPA is inadequate.
- ◆ The level of knowledge among SCF workers about the substance and procedures for implementing the VCPA is not sufficient to support consistent implementation.
- ◆ SCF workers also lack sufficient knowledge about the non-adversarial financial agreement mandated for families who have a VCPA.
- ◆ The forms used for the two kinds of “voluntary” agreements are confusing and likely to defeat even the most dedicated worker who does not use them frequently.
- ◆ Aside from initial training during the 1993-94 year, we identified no systematic ways that SCF workers would easily know about the policy and related procedures.
- ◆ We recognize that the number of families whose circumstances warrant the VCPA is relatively small compared to the Protective Service responsibilities of SCF; however, full and appropriate implementation is extremely important for families who must resort to this mechanism to obtain needed services for their children.
- ◆ Any attempt to improve the implementation of ORS 418.312 and ORS 418.032 (VCPA and the financial agreement, respectively) will require the ability to identify, track, and monitor families where a VCPA is instituted.

- ◆ Families who have or have had VCPAs are not sufficiently aware of their rights and responsibilities.
- ◆ Families’ experiences with SCF during the process of obtaining a VCPA varied greatly. About half of the families had an overall positive experience with SCF, and about the same number did not. The reasons for the negative experiences varied greatly, including under-informed caseworkers, disrespect, and high staff turnover.
- ◆ Families generally reported that while their child was in out-of-home placement they were allowed and/or encouraged to participate in treatment planning and implementation.

Recommendations

1. **Find alternative means to avoid the necessity of the Voluntary Child Placement Agreement.** Addressing this recommendation will require a concerted effort from all state agencies and other service providers.
 - a. **Prioritize prevention of out-of-home placement.**

Although ORS 418.312 addressed the immediate problem of parents’ losing legal custody of their children, it does not address any of the factors that contribute to the situation where families are compelled to seek out-of-home placement for their children.
 - b. **Find alternative sources of payment for out-of-home placement.**

When out-of-home placement is determined to be necessary, we recommend that alternative sources of payment be found, such as the current use of Medicaid for children with developmental disabilities now employed by the Oregon Mental Health and Developmental Disabilities Services Division.
2. **Utilize input from key stakeholders such as family members, SCF administrators, SCF caseworkers, and other relevant parties to change the Voluntary Child Placement Agreement and Voluntary Custody Agreement**

forms to make them easier for both families and SCF workers to understand and use.

3. **Increase training to child welfare workers, treatment providers, juvenile court judges, school personnel, inpatient hospital staff, and other relevant persons.**
4. **It may be useful to concentrate responsibility for executing Voluntary Child Placement Agreements with one to three workers in each branch.**
5. **Establish a means of tracking children and families where placement has occurred using a VCPA.** This recommendation is key to ongoing monitoring and implementation.

These recommendations may address barriers encountered by families seeking services for their children with emotional, behavioral, or mental disorders and/or developmental or physical disabilities by preventing the need for Voluntary Child Placement Agreements through SCF, making the process easier for workers who are in direct contact with families, identifying a source of information and advice from within the agency, and increasing the ability to track who has a VCPA. Streamlining the process will ease the burden on families who are already experiencing difficulties, allowing them to dedicate more energy into participation in their child's life and less time wading through confusing procedures. The child, the family, and ultimately society will benefit enormously from anything that encourages participation and supports families in their ability to appropriately provide for their children.