

# MEMORANDUM

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**To:** Peter Deuel, Jefferson County District Attorney  
Jacqueline Haggerty, Jefferson County Counsel  
Jeff Lichtenberg, Jefferson County Juvenile Department  
Roy Jackson, Jefferson County Department of Human Services  
Gary Williams, Crook County District Attorney  
Crook County Counsel  
Deb Patterson, Crook County Juvenile Department  
Kim Bird, Crook County Department of Human Services  
Members of Practicing Bar

**From:** George W. Neilson

**Date:** January 13, 2006

Attached are two memo's which cover two operational issues:

- 1) Use of certified interpreters in court.
- 2) Amendment of dependency and delinquency petitions.

Please review the materials. If you have any concerns, please contact me.

Recently, we have had several circumstances involving the ability to have an adequate number of professional interpreters available for court proceedings. Many of these issues could have been avoided by the court being furnished adequate notice.

The State Court Administrators Office is working diligently toward increasing the number of certified interpreters available in this area. In the interim UTCR 7.070 (see below) requires that any party in need of a foreign language interpreter for themselves or a witness must notify the court at least **FOUR** judicial days in advance. While we all know there are times we can not provide that kind of notice, those circumstances should be rare. Because we must arrange for our interpreters to be scheduled through an office in Portland and several of our interpreters travel at least an hour to serve us, your cooperation is appreciated.

Notice for our purposes may be provided to:

<u>County</u>	<u>Primary</u>	<u>Secondary</u>
Crook	Deanna Evans	Carol Humphreys
Jefferson	Fawn Farrester	Amber Loredó

I thank you for your help during this time of transition.

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#### 7.070 FOREIGN LANGUAGE INTERPRETERS

(1) If a foreign language interpreter is needed for a court proceeding, the party in need of an interpreter must notify the court in the manner required by the court as soon as possible, but no later than four judicial days in advance of the proceeding. For good cause shown, the court may waive the four-day advance notice.

(2) Notification to the court must include:

- (a) the name of the person needing an interpreter;
- (b) the case number;
- (c) charges (if applicable);
- (d) the nature of the proceeding;
- (e) the person's status in the proceeding;
- (f) the time, date, and estimated length of the proceeding; and
- (g) the language to be interpreted.

#### 7.080 INTERPRETERS' REQUESTS FOR INFORMATION

If requested by a neutral court interpreter, parties in civil and criminal cases shall provide a list of specialized terminology expected to be used in the proceeding in which the interpreter will be providing services. The list shall be provided prior to the commencement of the proceeding. The list shall be kept confidential by the interpreter and is not discoverable.

**RE: Amendment of Juvenile Court Petitions**  
**Dependency and Delinquency**

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The statutory structure governing the amendment of juvenile court petitions can be found at ORS 419B.872, ORS 419B.809(6) and ORS 419C.261.

With increasing regularity parties are filing amended petitions which contain changes to the basic allegations. Often the changes are, in the words of the statute, “substantial departures” from the original allegations. It has also been my experience that the amended petitions are filed at the last moment and with little or no notice. In some contexts the changes create no issues for the court and in some contexts significant problems are created. This court will encourage the following practice be observed:

- A) If the proposed amendment is a minor clerical change (ie improper address, birthday, etc), then a request to amend by interlineation may be made in open court at the time of the hearing with the only notice being the in-court request. These requests are usually easily granted.
  
- B) BEFORE APPEARANCE
  - 1) Before any party has appeared in court, the party which filed the petition may desire to amend it. While one could argue no motion is necessary, respectfully, the Court still believes using a motion would be the best practice.
  
- C) AFTER APPEARANCE
  - 1) By previous order - If at a previous hearing, the court has authorized or directed that an amended petition be filed, the no motion to amend must accompany the amended petition, but all parties should be served with the amended petition well in advance of the next hearing.
  
  - 2) By stipulation - If all parties have consented to the filing of an amended petition and the amendment will not require a delay in the jurisdictional hearing, then the amended petition can be tendered to the Court with a motion which sets forth the nature of the changes and recites: 1) all parties have consented to the amendment; and 2) that no delay in Court proceedings will result. Again, all parties must be served with the motion and amended petition.
  
  - 3) If the previous four situations do not apply, then the amended petition must be accompanied by a motion to amend the petition and an affidavit which discloses the reasons an amendment is

necessary and what impact the change may have on subsequent court proceedings. A copy of each document must be served on each party. The Court will determine whether or not a hearing is necessary to decide whether an amended petition will be allowed.

The point of requiring the motion and affidavit plus service upon the other parties is to avoid or minimize any surprise to the Court and the parties. All of us work with inadequate staff and resources, but timely filing of motions to amend and timely notice to all parties contribute to the goal of the timely jurisdictional hearings on all relevant jurisdictional issues.

If a party is seeking to file an amendment which will constitute a “substantial departure” from the original petition, then it should be rare that it is filed less than 14 days before the jurisdictional hearing.