Crossover youth proposal DRAFT  
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**Scope (as described in the Governor’s Task Force report):**

Recommendation #1: Oregon practice should target crossover youth who have current and simultaneous involvement in both the child welfare and juvenile justice system in the following ways: 1) youth with an open case in the child welfare/dependency system who are subsequently referred to the juvenile justice/delinquency system, and 2) youth with an open case in the juvenile justice/delinquency system and are subsequently referred to and become involved in the child welfare/dependency system. The purpose of identifying crossover cases should, wherever possible, be to (1) prevent crossover from dependency into delinquency systems; (2) assure, that whenever possible, that the intervention is actually based on the youth’s conditions and circumstances and the youth is placed in the least restrictive setting possible; and (3) when dual system involvement is necessary, ensure a coordinated streamlined response to the overlapping issues that bring the youth into multiple legal systems.

Recommendation #4: Performance standards for all delinquency, dependency, and criminal practitioners should be updated (or crafted) to reflect the unique nature of representation in crossover cases. The OSB Performance Standards for Representation in Criminal and Juvenile Delinquency and the OSB Performance Standards for Representation in Juvenile Dependency cases should include a requirement that all practitioners, regardless of their primary area of practice, have a basic understanding of the delinquency, dependency, and criminal justice systems, as well as child (including child brain) development; should necessitate a close collaboration between dependency and delinquency or criminal defense attorneys in crossover cases; and the Criminal and Juvenile Delinquency Standards should delineate the specific training needed by attorneys who represent juveniles charged with Measure 11 offenses. If or when corresponding standards are crafted for government counsel, they should include a requirement that all practitioners -- regardless of their primary area of practice -- have a basic understanding of the delinquency, dependency, and criminal justice systems, as well as brain and child development, and should prescribe the specific training needed by attorneys who represent juveniles charged with Measure 11 offenses.

**Strategy for implementation:**

* Within the dependency standards, include pre-petition representation for wards subject to law enforcement investigation
* Update criminal/delinquency standards:
  + require criminal/delinquent attorney to collaborate with dependency attorney,
  + when possible ensure one lawyer represents the same youth/ward,
  + update education/training expectations for JM11 and delinquency representation (see p51 of existing standards regarding scope, collaboration and collateral consequences).

**Proposed additions to dependency standards, representation of child clients:**

A child’s attorney should take specific actions to protect the rights of a child client who has been accused in a criminal case or served with a petition in a juvenile delinquency case.

Action: The child’s attorney should inquire regarding prior delinquency, status offense or criminal history. The child’s attorney should advise the child to contact the attorney immediately if the child is contacted by law enforcement, school authorities or is otherwise under investigation.

Action: The child’s attorney should identify and preserve relevant evidence related to mental health, cognitive functioning, disability, medical treatment, family history, and other mitigating factors.

Action: Whenever possible, the child’s attorney in the dependency case should also represent the youth in the delinquency case. If the child has two individual attorneys, the attorneys should collaborate regarding case strategy.

Commentary: The purpose of identifying crossover cases should be to, wherever possible, prevent crossover from dependency into delinquency systems; to assure, whenever possible, that the intervention is based on the youth’s conditions and circumstances and the youth is placed in the least restrictive setting possible; and when dual system involvement is necessary, to ensure a coordinated streamlined response to the overlapping issues that bring the youth into multiple legal systems.