

# **PARTICIPANT MATERIALS**

**OPD/OCLA Joint Training on HB 1227 (Part 2)**

**HB 1227 REALIZED: HOW TO DOMINATE SHELTER CARE  
IN A POST-1227 WORLD**

May 23, 2023, 12:00 PM – 1:30 PM

**HB 1227 Realized:  
HOW TO DOMINATE SHELTER CARE IN A POST-1227 WORLD**

HB 1227 will go into effect on July 1, 2023. Are you ready? In this interactive, virtual training, we will review HB 1227 and learn about the many ways this ground-breaking legislation changes our current law governing shelter care, relative placement, foster care placement, and more. We will work together to apply the new law to the facts of a dependency case, both at the stage of a 72-hour shelter care hearing and at a 30-day shelter care hearing and determine how the new law changes our analysis around issues of removal, harm of removal, prevention services, and visitation. This training will familiarize you with the language of HB 1227, as well as how to practically apply HB 1227 when the law rolls out. Attorneys, social workers, and parent allies are all welcome to attend this training!

1.5 CLE credits pending

Zoom link: <https://us06web.zoom.us/j/89219317299>

# AGENDA

*PLEASE NOTE THAT GROUP DISCUSSION TIME IS LIMITED.*

- Prior to Arrival: Please review the Petition In re the Matter of the Dependency of Simon Jango, Sean Jango, and Susie Windu and the case supervisory note.
- 12:00 – 12:30 PM: Summary of HB 1227 and its application to shelter care.
- 12:30 – 12:50 PM: Scenario 1. **Shelter Care Removal.** Attendees will be divided into groups of five. Groups will be given twenty minutes to answer 13 questions, both multiple choice and short answer, related to the Petition. During this scenario groups will only consider information from the Petition in answering questions and a volunteer scribe from the group will record the group's answers.
- 12:50 – 01:00 PM: Review of responses.
- 01:00 – 01:20 PM: Scenario 2. **30 Day Shelter Care Hearing.** Attendees will be once again divided into groups of five. Groups will be given another twenty minutes to answer nine questions, multiple choice and short answer, related to the continuing shelter care hearing in *In re the Matter of the Dependency of Windu*. The groups will consider information from the Petition and a supervisory case note in answering questions and a volunteer scribe from the group will record the group's answers.
- 01:20 – 01:30 PM: Review of responses.

# SCENARIO 1

## THE PETITION

<b>Superior Court of Washington</b> <b>County of Plainville</b> <b>Juvenile Court</b>
Dependency of: <b>Jango, Simon</b> <b>Jango, Sean</b> <b>Windu, Susie</b>

**No:**  
22-7-00255-33  
22-7-00256-33  
22-7-00257-33  
**Dependency Petition (DPP)**

**I. Basis**

I represent to the court the following:

**1.1 Petitioner**

- DCYF/Supervising Agency by (name) DCYF.  
 (Name) \_\_\_\_\_.

**1.2 Child alleged to be dependent:**

Name / Age	Sean Jango / 8	Child's Sex: Male
Name / Age	Simon Jango / 6	Child's Sex: Male
Name / Age	Susie Windu / 4	Child's Sex: Female
Home Address	1221 S. Main St. Plainville, WA 55555	

**1.3 Parent(s) or Legal Guardian(s):**

	<input checked="" type="checkbox"/> <b>Mother</b>	<input checked="" type="checkbox"/> <b>Father</b>
Name	Sally Windu	Andrew Windu
Age	38	42
Marital status	<input type="checkbox"/> single <input checked="" type="checkbox"/> married <input type="checkbox"/> other	<input type="checkbox"/> single <input checked="" type="checkbox"/> married <input type="checkbox"/> other
	<input checked="" type="checkbox"/> <b>Father</b>	
Name	Steven Jango	
Age	40	
Marital status	<input checked="" type="checkbox"/> single <input type="checkbox"/> married <input type="checkbox"/> other	

1.4 **Child's Indian Status:**

[X] Based upon the following, the Petitioner does not have reason to know the child is an Indian child as defined in RCW 13.38.040 and 25 U.S.C. § 1903(4), and the Federal and Washington State Indian Child Welfare Acts do not apply to this proceeding:

Mother and both fathers all deny any native ancestry.

1.5 **Dependency:** The child should be declared dependent according to RCW 13.34.030(6) as follows:

(DEPABN)	[ ]	(a) the child has been abandoned as defined in RCW 13.34.030;
(DEPAN)	[X]	(b) the child is abused or neglected as defined in chapter 26.44 RCW; or
(DEPNPGC)	[X]	(c) the child has no parent, guardian, or custodian capable of adequately caring for the child, such that the child is in circumstances which constitute a danger of substantial damage to the child's psychological or physical development.

1.6 **Allegations:** The allegation of Dependency is based on the following facts:

The family constellation consists of the mother, Sally Windu (38), her husband, Andrew Windu (42), the biological father of Susie Windu (4), and her siblings, Sean Jango (8) and Simon Jango (6), and their biological father, Steven Jango (40).

On 9/30/2022 the Department received an intake that the mother, Sally, was heard screaming at her 8-year-old, calling him embarrassing and disgusting, the referent stated that she thought she heard the mother slap the child.

On 9/30/2022 social worker Mikes responded to the residence and spoke with the family. Ms. Windu denied getting physical with Sean. The house was in disarray with toys, clothes, and dirty dishes littering the main living area. There was minimal food in the home and the children's rooms were cluttered. Social worker Mikes offered to provide Ms. Windu with family preservation services and some additional food assistance. Ms. Windu agreed to the service and food assistance but has failed to participate in the service at the time of this filing.

On 10/15/2022, the police responded to the Windu home. A caller reported to emergency services that Sally and Andrew were in their front yard, yelling obscenities at one another. Sally was reportedly holding Susie during the incident. The same caller stated that Sally had two other children but had no information about where the other children were during the incident.

When police arrived, they found Sally crying on the front porch holding Susie. Responding officers noted that Sally appeared to have clear reddish marks on her face and her arms. The police noted that the marks on Sally's arms appeared to be "forcible grab type marks."

When the police asked Sally what happened, she immediately reported: "I am fine, just go away!" Officer Williams asked her if anyone else was home. Sally did not respond to Officer Williams. Officer Adams pressed her further about her "obvious injuries." She denied she was injured and told them to "Please leave!" The police closed the report without an arrest due to a reported "lack of probable cause."

On 10/19/2022, the Department received a report from a school counselor. The counselor reported that Sean had struck another student during class. During an interview with the school counselor, Sean reported that he just “whooped his ass” because the other student took his markers. The counselor was taken back by his phrasing and asked where he had heard it. Sean reported that Andrew always “whoops his and Simon’s ass when they are in trouble.” He then told the counselor that Andrew doesn’t “whoop Susie because she’s too little and it makes him mad!” When asked if he felt safe at home, Sean reported “yeah, when Andrew isn’t around, and my mom leaves me alone.” The Department screened in the referral.

On 10/20/2022, SW Gideon attempted contact at Sally’s residence. Andrew answered the door and reported that Sally was staying at her mother’s. He said he didn’t know the address but gave this worker Sally’s phone number. He refused to answer any other questions.

After several attempts, SW Gideon was able to contact Sally by phone. She stated the children were fine and Andrew was a “piece of s\*\*t.” She said they were at her mother’s house and provided the address. SW Gideon indicated that this worker would come see the children at the house.

On 10/21/2022, SW Gideon attempted to contact Sally at her mother’s residence and complete a face-to-face with the children. Sally’s mother (the maternal grandmother) answered the door and reported that Sally had left earlier in the day with the children and believes Sally returned home.

SW Gideon responded to Sally’s residence where this worker found Sally, Andrew, and the children. Sally let this worker into the family home, it was dark and cluttered. There were children’s toys strewn about and dirty dishes all over the house. The home smelled strongly of marijuana. Andrew became immediately angry that Sally let this worker into the home and left through the back door shortly after yelling “Don’t blame me if they take our kids! They are only doing this because we are black.” As he was leaving, this worker noted a hole in the living room wall, near the backdoor that appeared consistent with being struck with a fist.

Sally reported that she was struggling with depression and felt overwhelmed with the children. She apologized for the state of the house and claimed this was unusual. She denied marijuana use, or any drug use. However, she refused to provide a UA for this worker and denied any domestic violence. She stated that neither she nor Andrew “hit” the children but did say that they have spanked the kids.

SW Gideon met with Sean, privately in his room. He reported that Andrew is mean. When asked “how is he mean?” Sean reported that Andrew “hit him” last week because he stole a ball from Susie and made Susie cry. When asked where he was hit, Sean stated “On my head and it hurt!” When asked what his mom did during the incident, Sean stated: “She just laughed and said I was a baby!” SW Gideon then met with Simon, privately in his room. He said that “Andrew is mean, not like my dad. My dad takes us to the trampoline park and buys us toys.” This worker noted that Simon appeared quiet and withdrawn throughout the interview. None of the children had any visible injuries.

SW Gideon asked Sally why she hadn’t engaged in family preservation services. Sally stated that she hadn’t heard from the provider. This worker offered to refer Sally for a mental health assessment, UA/BA testing, a chemical dependency assessment, and DV prevention services. Sally presents as unwilling to engage in the offered services as this worker has referred Ms. Windu and she has not engaged.

Mr. and Ms. Windu’s history of CPS involvement is as follows:

- 1 Intake screened in on the Family Assessment Response pathway in 2020.
- 5 CPS intakes that resulted in unfounded findings since 2015

- 1 CPS intake that resulted in founded findings in 2016.
- 5 intakes that did not screen in from 2019-2021.

The family has participated in or been offered the following services.

- Mental Health Assessment (offered).
- UA/BA Testing (offered).
- Chemical Dependency Assessment (offered).
- DV Prevention Services (offered).
- Family Preservation Services referral was made on 10/17/2022.
- Food Assistance 10/01/2022.
- Homebuilders referral was made on 01/03/2020.
- Functional Family Therapy referral was made on 01/03/2020.

Ms. Windu has no criminal history.

Mr. Windu has been arrested five times. He has been arrested once for DUI, once for possession of a controlled substance – marijuana, twice for fourth degree assault domestic violence, and once for third degree assault. Ms. Windu was not the alleged victim in any of these arrests. His last criminal conviction was in 2016.

Mr. Jango is the father of Sean and Simon. Mr. Jango lives in Oregon. The Department has no CPS records related to Mr. Jango, but Mr. Jango has a criminal history in Washington State that includes larceny and assault. His last criminal conviction was in 2012. Sally reports that Mr. Jango is a “loser” and that he has nothing to do with his kids.

SW Gideon has conducted the following safety plan analysis:

- |   |     |
|---|-----|
| • There is a parent/caregiver or adult in the home/facility.  | YES |
| • The home/facility is calm enough to allow safety providers to function in the home/facility.            | NO  |
| • The adults in the home/facility agree to cooperate with and allow an In-Home Safety Plan.               | NO  |
| • Sufficient, appropriate, reliable resources are available and willing to provide safety services/tasks. | NO  |

SW Gideon has identified the following safety threats in the home:

3. Caregiver(s) are acting (behaving) violently or dangerously and the behaviors impact child safety.
4. There has been an incident of domestic violence that impacts child safety. And the domestic violence perpetrator has caused serious harm or threats of harm against the adult victim/caregiver of the child and the domestic violence perpetrator has seriously harmed or threatened serious harm to the child.
5. Caregiver(s) will not or cannot control their behavior and their behavior impacts child safety.
6. Caregiver(s) perceives child in extremely negative terms.



11. Caregiver(s) overtly rejects DCYF intervention.

16. A child is fearful of the home/facility situation or people within the home/facility.

1.7 [X] **Educational Liaison**

The child meets the criteria for appointment of an educational liaison. The DSHS/Supervising Agency recommends that the court appoint an educational liaison.

**II. Relief Requested**

The Petitioner requests that the court find the child dependent, enter an order of dependency, and grant the relief below:

- enter a disposition order that includes placement, parent-child and sibling visitation, and services.
- appoint an educational liaison.
- order a parent to cooperate with the establishment of paternity.
- order a parent to sign releases for information.
- other:

\_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Type or Print Name/Title      WSBA No.

**III. Certification**

I declare under penalty of perjury under the laws of the State of Washington that the foregoing representations are true and correct.

Signed at (city) \_\_\_\_\_, Washington on (date) \_\_\_\_\_.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

# SCENARIO 2

SUPERVISORY CASE NOTE

<b>Case Name:</b> Windu, Sally	<b>Case ID:</b> 1234567	<b>Case Note ID:</b> 76543210	<b>Note Finalized [ ]</b>
<b>Case Note Category:</b> CFWS		<b>Case Note type:</b> Supervision	
<b>Date Occurred:</b> 11/15/2022		<b>Time Occurred:</b> 12:00AM	
<b>Date Entered:</b> 11/15/2022 04:16 PM		<b>Note entered by:</b>	
<b>Related Participants and Collaterals:</b> Jango, Steven		<b>Related Intakes:</b> 10/19/2022 10:06 AM 5554561	
<b>ACTIVITIES</b>			
Activity: Supervisory Staffing-other Participant: Sally Windu Administration Office		Location: Children's TCM: No	
Time: 12:AM			
<b>CONTACTS</b>			
<b>NARRATIVE</b>			
Case Note 1 of 1 Time Entered: 04:16 PM		Entered by: Janette Smith Date Entered: 11/15/2022	
<p>Mother: Windu, Sally  Father: Windu, Andrew  Father: Jango, Steven</p> <p>Child(ren):  Jango, Sean (8)  Jango, Simon (6)  Windu, Susie (4)</p> <p>Susie Windu is placed with her paternal grandfather Owen Lars. Simon and Sean Jango are placed in a foster home.</p> <p>Susie was placed with Mr. Lars over the objection of the Department at shelter care. Mr. Lars has completed the initial background check and has no CPS history, but he has not completed the fingerprint background check. Mr. Lars lives in a studio apartment and is unemployed due to a back injury. He lacks clear boundaries with Susie's parents, is not willing to be a permanent placement currently, and he is not following the case plan, including allowing unauthorized contact between Susie and her mother. The Department learned from Susie during a health and safety check that Mr. Lars has allowed Ms. Windu to call the children at night and visit Susie twice on the weekends at his house. Mr. Lars did not report this to the Department. Susie denies seeing or talking with her father, yet Ms. Windu continues to have contact with Mr. Windu, see below for more details.</p> <p>Simon and Sean are placed together. The current placement is Simon and Sean's third placement. Simon has demonstrated defiant, aggressive behaviors and allegedly struck another child in his previous placement, resulting in an emergency change of placement for both children. The current placement is willing to take both children and does not have other children in the home.</p> <p>Ms. Windu continues to support placement with Mr. Lars and is requesting placement of Simon and Sean in the DV shelter with her.</p>			

Mother Sally currently resides in a YMCA domestic violence shelter.

Father (Andrew) continues to reside at 1221 S. Main Street, Plainville, WA 55555.

Father (Jango): currently resides at 4556 E. Rutherford Rd, Anytown, OR 56555.

MOTHER: Sally Windu

**Mental Health Assessment.** Mother completed an assessment at Naboo Counseling. Mother signed a release, and the results of the assessment are still pending. Mother reports engaging in one-on-one counseling.

**UA/BA Testing.** Mother was referred to Moff Labs for UA/BA testing. SW texted mother the address, date, and time. Mother no showed. When SW Gideon first contacted the mother, the home had the noted odor of marijuana.

**Chemical Dependency Assessment.** Mother was referred to Phasma Family Services for a chemical dependency assessment. Mother was texted the phone number to contact Phasma. Mother has not contacted Phasma to our knowledge. When SW Gideon first contacted the mother, the home had the noted odor of marijuana and the mother reports suffering from mental health issues.

**DV Prevention Services.** Mother reports engagement through the YMCA, but she has not signed a release. It should be noted that an anonymous referent disclosed to SW Gideon, prior to case transfer, that Ms. Windu was seen meeting with a man outside of the emergency shelter, two days after Ms. Windu entered. The physical description of the man was consistent with Andrew Windu. Since shelter care, Ms. Windu was also seen being dropped off at the visitation agency by Mr. Windu on two occasions. Ms. Windu denied meeting with Mr. Windu at the shelter but did admit to receiving a ride on two separate occasions from Mr. Windu to visits. When asked where she was picked up from, Ms. Windu denied the Mr. Windu picked her up from her shelter and claims that she met him at a convenience store. She states that she needs transportation assistance.

**Family Preservation Services.** referral was made on 10/14/2022 to Phasma Family Services. The FPS provider has had one visit with the mother and reported that the mother lacked insight into her needs.

**Transportation Assistance.** Ms. Windu was provided a bus pass by SW Gideon. Ms. Windu later reported losing the bus pass. Ms. Windu was not candid about how she lost the pass, claiming that she doesn't recall, and we will review the decision to issue her a second pass. Transportation assistance is not court ordered.

FATHER: Andrew Windu

Mr. Windu was defaulted at the shelter care hearing and is not responsive to efforts of the

Department to communicate with him or to case plan with him.

FATHER: Steven Jango.

Mr. Jango lives in Anytown, OR. He has a criminal history in Washington State that includes larceny and assault. The mother reports that he is uninvolved with his children. He has not agreed to any services at this time and has had limited visitation with his children. The Department may support placement with Mr. Jango upon approval of an ICPC.

Visitation.

MOTHER: Sally Windu

Ms. Windu's visitation is court ordered, supervised, 3 times a week, for 2 hours. Visitation is at Leia's Nursery and scheduled Monday, Wednesday, and Friday from 4:30 pm to 6:30 pm. Ms. Windu has had 8 scheduled visits with Susie, but she no showed to 1 visit, and four visits were cancelled due to Ms. Windu failing to appear on time to the visitation center. Ms. Windu reports being late because her employer will not let her leave early on Monday or Wednesday. In the three visits that Ms. Windu did attend, she and Susie interacted well, and Susie appeared bonded and attached to her mother.

Simon and Sean have only attended 1 visit with Ms. Windu and Susie. The combination of placement disruptions and Simons aggressive behavior has caused transportation barriers. Currently, the boys are placed an hour away from the visitation center. Staffing shortages have made transportation impossible. Current FP has reported that Simon dysregulates when visitation is cancelled, and the FP has requested that the Department stop visitation until the boys stabilize in placement and transportation is arranged.

It should be noted that an anonymous referent disclosed to SW Gideon, prior to case transfer, that Ms. Windu was seen meeting with a man outside of the emergency shelter, two days after Ms. Windu entered. The physical description of the man was consistent with Andrew Windu. Since shelter care, Ms. Windu was also seen being dropped off at the visitation agency by Mr. Windu on two occasions. Ms. Windu denied meeting with Mr. Windu at the shelter but did admit to receiving a ride on two separate occasions. Ms. Windu denies that Mr. Windu picked her up from her shelter.

FATHER: Andrew Windu

Mr. Windu was defaulted at the Shelter Care hearing and is not responsive to efforts of the Department to communicate with him or to case plan with him.

FATHER: Steve Jango

Mr. Jango's visitation is court ordered, supervised at 1 time per week for 4 hours. Mr. Jango has attended one visit. The Department provided Mr. Jango with travel and lodging for the visit. The visit went well, and Simon appears bonded to his father. Sean appeared distant but interactive with his father. Yet, an unusual incident report was generated due to Sean asking Mr. Jango questions about "why he doesn't want them" and "why he cheated on their mother." Mr. Jango

deflected the questions.

Recommendations.

File for removal of Susie from placement with Mr. Lars.

File for clarification of visitation regarding Simon and Sean.

MOTHER: Sally Windu

Continue to engage in offered services.

Mental Health Assessment.

UA/BA Testing.

Chemical Dependency Assessment

DV Prevention Services.

Transportation Assistance. To be reviewed.

Continue supervised visitation. Ms. Windu has not been compliant with her visitations and is believed to be visiting outside of the Court's order.

FATHER: Andrew Windu

Continue efforts to locate and engage Mr. Windu.

Offer supervised visitation if Mr. Windu appears.

FATHER: Steven Jango.

Continue Mr. Jango's supervised visitations. Once dependency is established, refer for an ICPC and possible placement with Mr. Jango in Oregon.



In 2021, the Washington State legislature formally declared that:

[C]hildren and families are better served when the state provides support to allow children to be cared for by their loved ones and in their communities. The legislature finds that decades of research show that Black and Indigenous children are still disproportionately removed from their families and communities despite reform efforts.

For these reasons, it is the intent of the legislature to safely reduce the number of children in foster care and reduce racial bias in the system by applying a standard criteria for determining whether to remove a child from a parent when necessary to prevent imminent physical harm to the child due to child abuse or neglect...

HB 1227, Section 2. In enacting HB 1227, the Washington State legislature made numerous substantive changes to the Juvenile Court Act. Many of these changes are summarized below. However due to the breadth of HB 1227, this summary does not replace the need to read the full bill and relevant statutes.

### RELEVANT TO THE PETITION

The new law requires the petitioner to verify the petition and adds that where the petitioner is seeking removal the petition **shall contain a clear and specific statement as to the harm that will occur if the child remains in the care of the parent and the facts that support that conclusion.**

### RELEVANT TO EX PARTE REMOVAL EFFORTS

The new bill amended RCW 26.44.056 (**Hospital Holds**) to require “**probable cause**” not “reasonable cause” **to believe that “detaining the child is necessary to prevent imminent physical harm and serious injury.** However, the statute does not define probable cause.

Although not binding, probable cause is well defined in the criminal context.

One of the most common examples is the determination of probable cause to issue a search warrant. There the burden is on the State to recite objective facts and circumstances which, if believed, would lead a neutral and detached person to conclude that more probably than not, evidence of a crime will be found if a search takes place.

Another common Fourth Amendment example is the determination of probable cause on a warrantless arrest. One way to determine whether a warrantless arrest is “reasonable” is to consider whether the State's evidence, if believed, establishes the officer had reasonable grounds to believe a felony had been or was being committed in his presence.

*Det. of Petersen v. State*, 145 Wash. 2d 789, 797 (2002) (internal citations removed).

RCW 26.44.050 (**AEP**) already required probable cause but amended the language to require a belief that it is necessary **to prevent imminent physical harm and serious injury.**

Next, the bill amended RCW 13.34.050 (**Pick-up Order**) to require the petition to aver:

- **Corroborating evidence of dependency.**
- **The allegations, if true, establishes reasonable grounds to believe that removal is necessary to prevent imminent physical harm.**
- **A declaration evidencing insufficient time to serve AND hold a hearing prior to removal.**

The petitioner must also serve the petition on the parent, unless diligent efforts to locate the parent are unsuccessful. However, failure to serve the petition does not invalidate it.

If a child is removed by AEP or ex parte court order, the Department is to place the child in relative care, “[u]nless there is reasonable cause based on specific evidence to believe that the health, safety, or welfare of the child would be jeopardized or that the efforts to reunite the parent and child will be hindered. This relative must also:

- Be willing and available to care for the child and be able to meet any special need.
- Complete the statutory inquiry for continued placement.
- Be willing to facilitate the child's visitation with siblings if such visitation is part of the plan or order.

If the Department does not place with a relative, they must make continuing efforts to place with a relative and document its efforts.

Lastly, the department may authorize medical evaluations of the child, but the parent is authorized to attend appointments unless it is prohibited by court order.

### **SHELTER CARE PROCEDURE**

The new bill also made changes to the procedures at shelter care. For example, it removed “reasonable” and substitute “diligent” efforts to inform, advise or provide notice and requires testimony (orally or in writing) about those efforts where a parent does not appear.

It also requires:

- When a child is removed or when the petitioner is seeking the removal, the court shall hold a shelter care hearing. This is relevant to private filings.
- The Court to “hold an additional shelter care hearing within 72 hours” if the child is removed from the care of a parent, guardian, or legal custodian at any time after an initial shelter care hearing under this section. This provision cements the procedure for removal post placement.
- The court is to provide attorney appointment information.

The statute also permits the child’s attorney to continue or request a subsequent shelter care hearing.

### **REMOVAL FROM A PARENT OR GUARDIAN**

The new bill amends the removal standard to require reasonable cause to believe:

- Removal of the child is necessary to prevent imminent physical harm due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, or a pattern of severe neglect.
- The evidence shows a causal relationship between the conditions in the home and the imminent physical harm.
- It is contrary to the welfare of the child to be returned home.
- The imminent physical harm to the child outweighs the harm the child will experience because of removal.

Then, if the court finds the above elements, the court shall further consider:

- If any prevention services would eliminate the need for removal, and
- If the parent is willing, following consultation, to participate in such services.
- Or whether A TRO would prevent the need for removal.

Preventative services, as defined in RCW 13.34.030(21), are not remedial services or family reunifications services, as defined in RCW 13.34.025(2). Yet, preventative services and remedial services may be the same. For example, prevention services can include FPS, housing assistance, mental health treatment, substance abuse prevention and treatments services, and in-home parent skill-based programs. At the same time, remedial services can include individual, group, and family counseling; substance abuse treatment services; mental health services; assistance to address domestic violence; etc. Arguably, the difference may best be described by its result. The result of prevention services, akin to a safety plan, controls the situation by preventing the need for out of home placement. Whereas remedial services



result in a change in behavior and facilitate reunification, akin to a case plan. In the end, whether a service is preventative or remedial may turn on its result and not its purpose, but an exact distinction is elusive.

## RELATIVE PLACEMENT

The bill also requires the Court place outside foster care, unless the petitioner establishes reasonable cause to believe:

- Placement in foster care is necessary to prevent imminent physical harm to the child due to child abuse or neglect because no relative or other suitable person can ensure the basic safety of the child; or
- The efforts to reunite the parent and child will be hindered.

The new law adds a new line of court inquiry into whether there are any relatives or other suitable persons who:

- Are willing to care for the child.
- Have expressed an interest in becoming a caregiver for the child.
- Can meet any special needs of the child.
- Are willing to facilitate the child's sibling and parent visitation if such visitation is ordered by the court.
- Supports reunification of the parent and child once safe to do so.

The new bill expressly instructs the court to give great weight to the stated preference of the parent and the child.

If a relative or other suitable person expressed an interest in caring for the child, the following must not prevent placement:

- An incomplete department or fingerprint-based background check if they appear otherwise suitable and competent.
- Uncertainty regarding adoption.
- Disbelief that the parent presents a danger to the child, provided they will protect the safety of

the child and comply with court orders regarding contact.

- Or the conditions of the relative or other suitable person's home are not sufficient to satisfy the requirements of a licensed foster home.

Importantly, the court may order the department to provide financial or other support to the relative or other suitable person necessary to ensure safe conditions in the home.

If the court places with a relative or other suitable person, and that person has indicated a desire to become a licensed foster parent, the court must order:

- The department to commence an assessment of the home within 10 days, and
- Issue an initial license for such relative or other suitable person, if qualified.

Payments of foster care maintenance funds to commence on the date the department approves the initial license. However, if unqualified, the department must report such fact to the court within one week of that determination. The department must also report on the status of the licensure process at the dispositional phase.

## FOSTER CARE PLACEMENT

The new law permits foster care placement only if the court does not order placement with a relative or other suitable person. If the court places in foster care, it must set forth its reasons for doing so in the order.

The new law also requires the petitioner shall report to the court, at the shelter care hearing, the location of the licensed foster placement and the court can inquire as to whether:

- The placement is the least restrictive.
- The child will remain in the same school. And the court can enter any orders necessary to ensure educational stability.
- The child will be placed with a sibling or siblings.
- The placement can meet the needs of the child.

- Whether the location of the placement will impede visitation.

After inquiry, the court may order the department to:

- Place the child in a less restrictive placement.
- Place the child in a location in closer proximity to the child's parent, home, or school.
- Place the child with the child's sibling or siblings.
- Take any other necessary steps to ensure the child's health, safety, and well-being.

AND the court shall advise the petitioner that:

- Failure to comply with court orders will be considered when determining reasonable efforts; and
- Placement moves will be considered when determining reasonable efforts.

### **MISCELLANIOUS**

Finally, the new legislation limits DCYF liability for complying with a court order regarding placement with a parent who has agreed to accept services, a relative, or suitable other person.

Amended RCW 13.34.090 to explicitly require that the department make “every effort to provide” discovery prior to any shelter care hearing.

And created new sections that require the Department to apply for federal waivers that would reimburse the department for the cost of providing maintenance payments for relatives or other suitable persons caring for a child who have indicated a desire to become a licensed foster parent, provided that the person has received an initial license from the department.