

WHY ARE WE CHANGING? THE ROAD TO HB 1227

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THE “KEEPING FAMILIES TOGETHER ACT”: WHY?

HARM OF REMOVAL

- “The legislature recognizes that children 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.” HB 1227, Sec. 2, (1).
- “...[I]t is the intent of the legislature to... apply[] a standard criteria for determining whether to remove a child from a parent when necessary to prevent imminent physical harm..” HB 1227, Sec. 2, (2).

THE “KEEPING FAMILIES TOGETHER ACT”: WHY?

RACIAL DISPROPORTIONALITY

- “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.” HB 1227, Sec. 2, (1).
- “...[I]t is the intent of the legislature to **safely reduce the number of children in foster care and reduce racial bias in the system...**” HB 1227, Sec. 2, (2).

HARM OF REMOVAL:

**WHAT DOES IT MEAN,
AND WHY DOES IT
MATTER?**



WHAT IS THE “HARM OF REMOVAL?”

- Term used in child welfare system for multiple ways a child may be negatively impacted by separation from family and placement into foster care.
- Conveys recognition that removal and placement in foster care may have worse impacts on child than neglect.



Shanta Trivedi, *The Harm of Child Removal*, 43 N.Y.U. REV. L. & SOC. CHANGE 523, 542-544 (2019).

WHY TALK ABOUT HARM OF REMOVAL?

- Emerging research no longer supports idea that removal of children from parental care always ensures, or promotes, safety.
- A.C.E.s. (adverse childhood experiences): average number reported by adults formerly in foster care was SIX.
- 1/3 of adults reported EIGHT or MORE.
- Placement into foster care does not stop accrual of additional A.C.E.s.



Bruskas, Tessin, Adverse Childhood Experiences and Psychosocial Well-Being of Women Who Were in Foster Care as Children, Perm J 2013 Summer; 17(3).

WHAT ARE THE HARMS OF REMOVAL: TO THE CHILD?

Harms of Removal – Entering Foster Care

- Separation from Parents/Family/Siblings
- Trauma
- Grief and Confusion
- Ambiguous Loss (lack of closure regarding loss/separation)


Harms of Removal – Remaining in/Exiting Foster Care

- Placement Instability
- Poor Long-Term Outcomes
- System Contact
- Unique Harms for Minority Children

Physical and Mental Health Harms

- Abuse/Neglect in Foster Care
- Separation/Attachment Disorders
- Physical, Developmental, Dental, and Sexual Health Problems

Shanta Trivedi, *The Harm of Child Removal*, 43 N.Y.U. REV. L. & SOC. CHANGE 523, 542-544 (2019); Vivek Sankaran, Christopher Church, & Monique Mitchell, *A Cure Worse Than the Disease? The Impact of Removal on Children and Their Families*, 102 MARQ. L.REV. 1161, 1171 (2019).



Children generally suffer worse outcomes when removed than if they had been allowed to remain in marginal homes

(Ryan & Testa 2005; Doyle 2007; Doyle 2008; Lowenstein 2018)

Children who have been placed in foster care are:

7x as likely to experience depression

6x as likely to exhibit behavioral problems

5x as likely to feel anxiety

3x as likely to have attention deficit disorder, hearing impairments and vision issues

2x as likely to suffer from developmental delays, asthma, obesity and speech problems



HARM OF REMOVAL: NEGATIVE LONG-TERM OUTCOMES

Youth in foster care are less likely to graduate high school:

- In 2017, 81% of non-foster youth graduated vs. 46% of foster youth.
- In 2021, 83% of non-foster youth graduated vs. 48% of foster youth.

Earnings and unemployment rates by educational attainment, 2020

Educational attainment	Median usual weekly earnings	Unemployment rate
Doctoral degree	\$1,885	2.5%
Professional degree	1,893	3.1
Master's degree	1,545	4.1
Bachelor's degree	1,305	5.5
Associate degree	938	7.1
Some college, no degree	877	8.3
High school diploma, no college	781	9.0
Less than a high school diploma	619	11.7

Note: Data are for persons age 25 and over. Earnings are for full-time wage and salary workers.
Source: U.S. Bureau of Labor Statistics, Current Population Survey.



Approximately 1 in 10
children removed
from parental care
exit foster care within
30 days.

AFCARS Report, FFY 2021,
<https://www.acf.hhs.gov/sites/default/files/documents/cb/afcars-report-29.pdf>.

WHAT ARE THE HARMS OF REMOVAL: TO THE PARENT?

- ✓ Grief and loss
- ✓ Guilt and shame
- ✓ Despair
- ✓ Anxiety
- ✓ Substance use

“I went insane. I broke down, nearly died. I couldn’t stay in my house. I couldn’t be around their clothes . . . I found myself just wandering around looking for them. Even though, you know, they are not there. It’s just—it’s traumatizing. It’s awful. [sobbing] . . . It’s as if the three of them died. One day just died. That’s the grief that I went through. That’s the pain that I went through. But meanwhile they didn’t [die]. Somebody’s got them. Somebody’s keeping them from me . . . It was too much.”

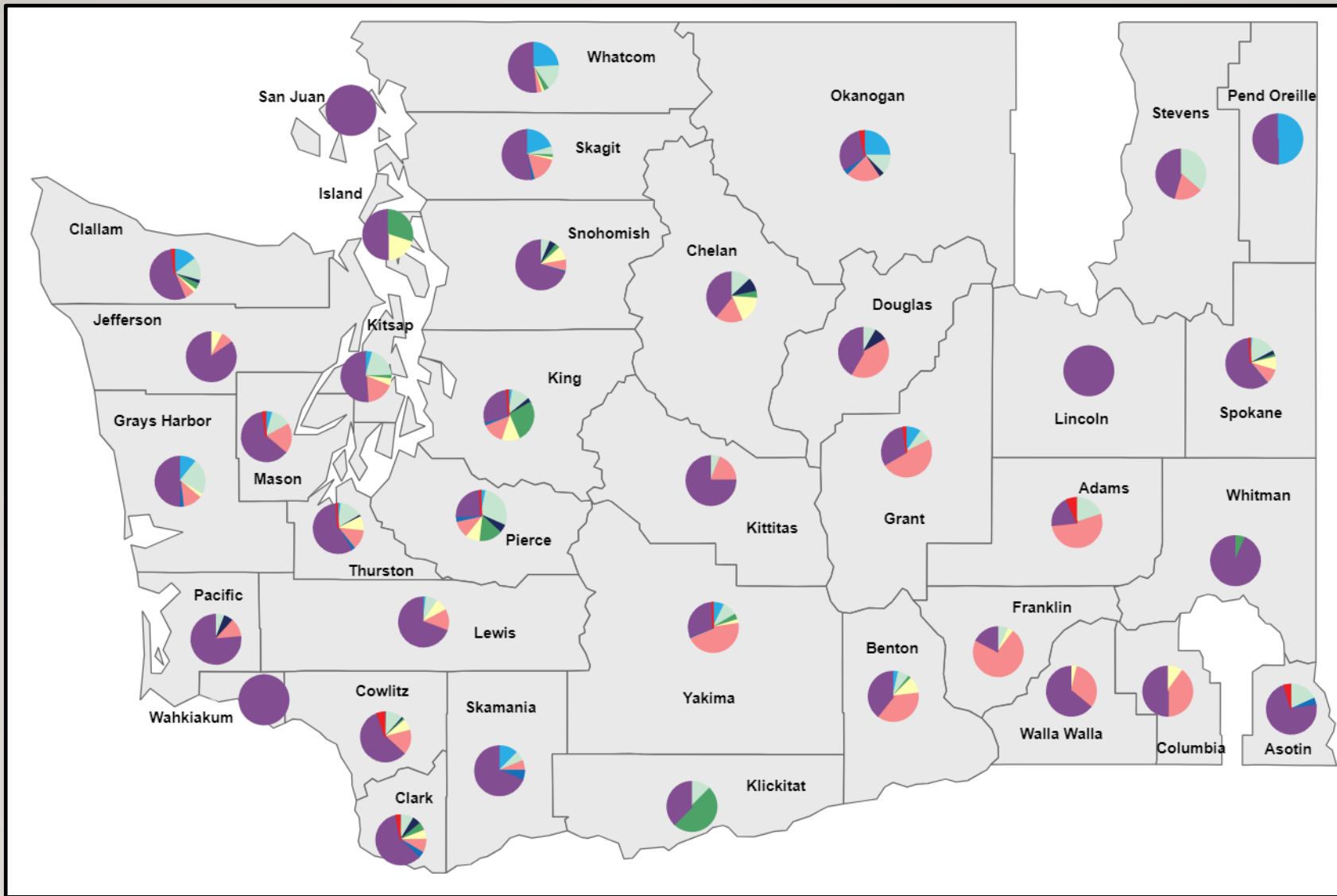
Kendra L. Nixon et al., “Every Day It Takes a Piece of You Away”: Experiences of Grief and Loss Among Abused Mothers Involved with Child Protective Services, 7 J. PUB. CHILD WELFARE 172, 182–83 (2013).

RACIAL DISPROPORTIONALITY:

HOW DO WE SEE IT IN
THE CHILD WELFARE
SYSTEM?

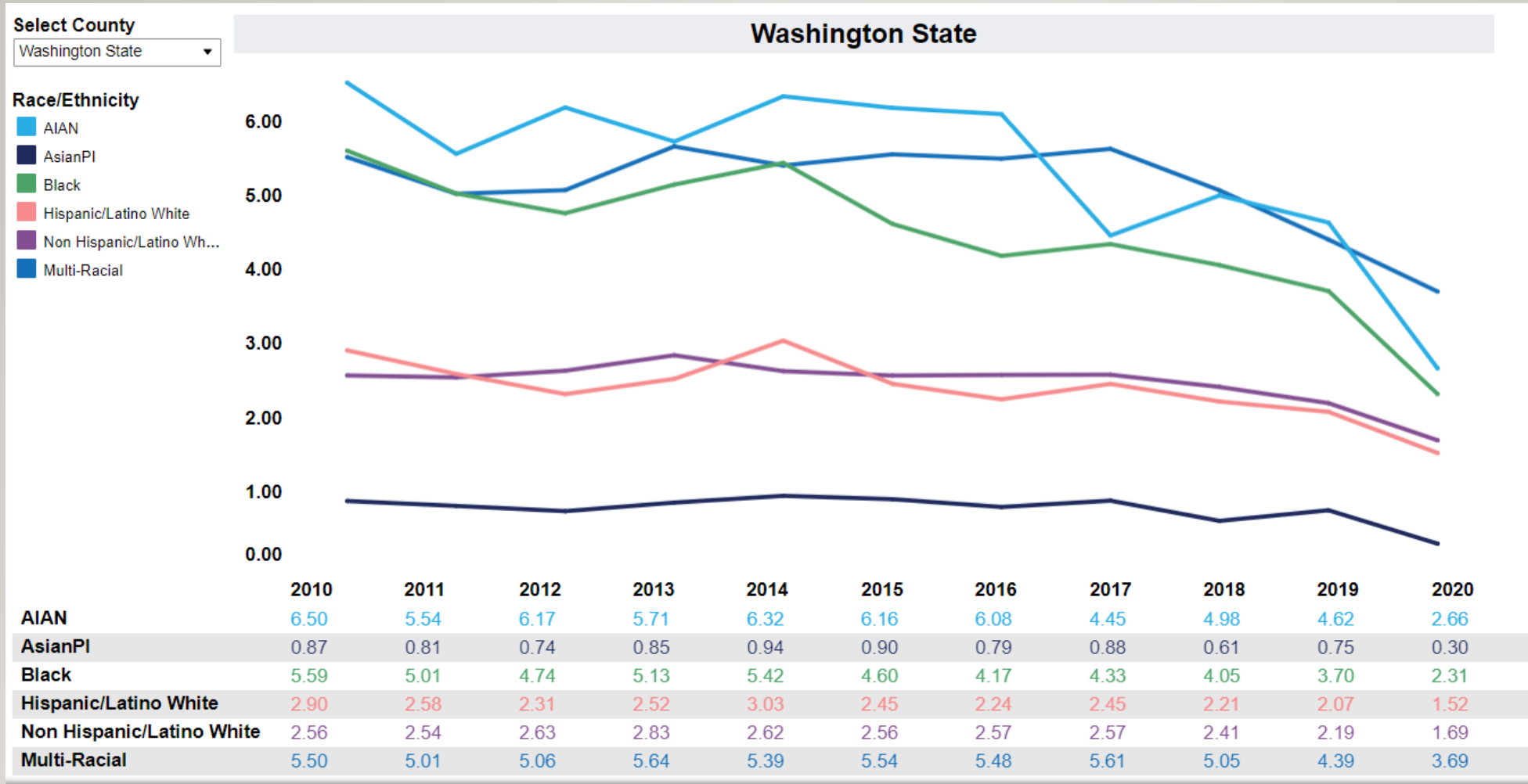


Dependency Filings by Race/Ethnicity by County, 2022



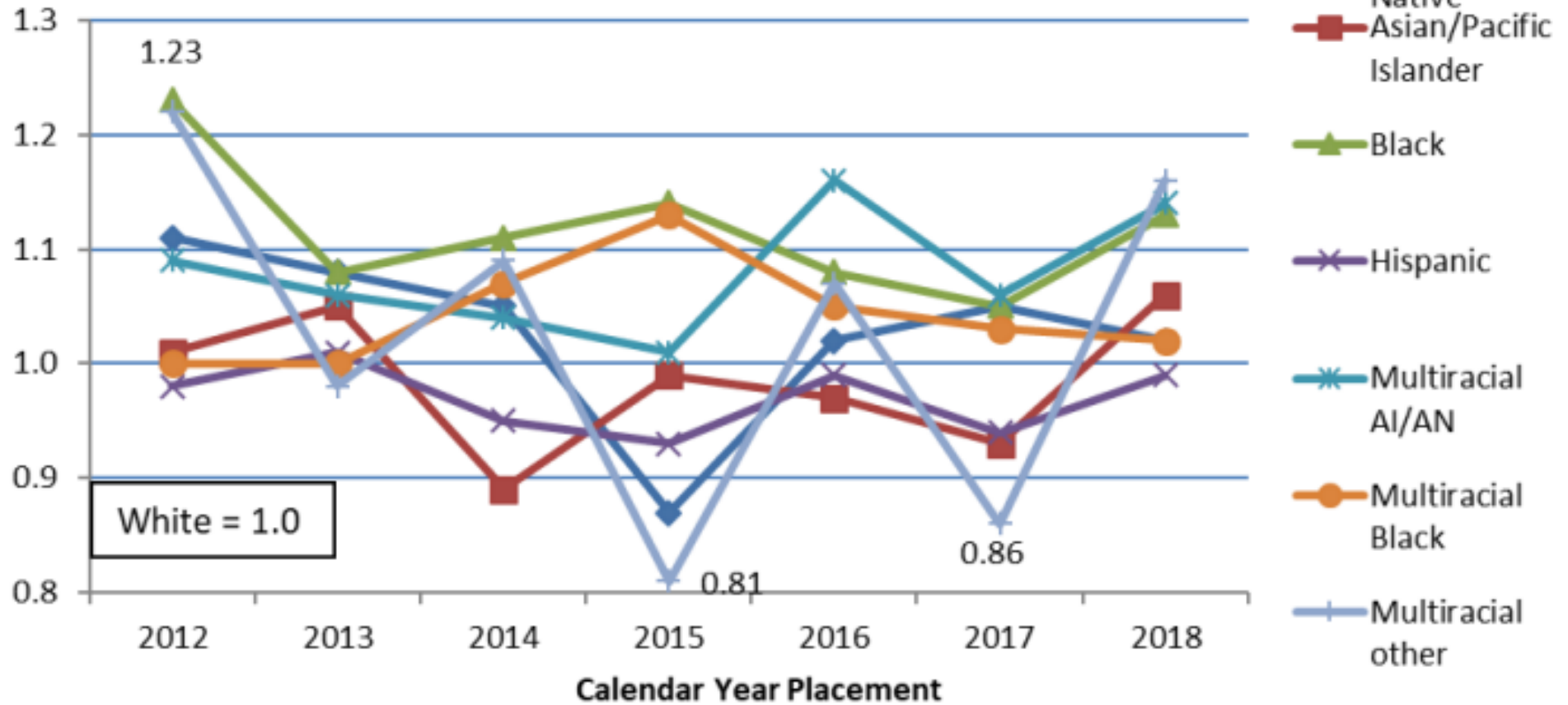
WSSCR Dependency Dashboard, Dependency Filings by Race and Ethnicity by County 2017-2022, <https://public.tableau.com/app/profile/wsscr/viz/DependencyDashboard/MonthlyUpdates-CurrentYear>

Dependency Filing Rates Per 1000 Population, by Race/Ethnicity, Statewide (2010-2020)



WSCCR Dependency Dashboard, Dependency Filing Rates Per 1000 Population by Race/Ethnicity, <https://public.tableau.com/app/profile/wscqr/viz/DependencyDashboard/MonthlyUpdates-CurrentYear>

State Trends, DIAP of Children/Youth Not Initially Placed with Relatives - Expanded Scale



Children
NOT
Initially
Placed With
Relatives
(2012-
2018)

2019 Washington State
Child Welfare Racial
Disparity Indices Report,
<https://www.dcyf.wa.gov/sites/default/files/pdf/reports/CWRacialDisparityIndices2019.pdf>

RACIAL DISPROPORTIONALITY – WHEN DO WE SEE DISPROPORTIONAL IMPACTS?

- Cases accepted for investigation (Zuvarin et al., 2005)
- Substantiation of alleged maltreatment (Ards, et al., 2003)
- Mitigation/reasonable efforts (Trivedi, 2019)
- Placement in out-of-home care (Rivaux, et al, 2008)
- Children NOT being placed with relatives (DCYF Racial Disparity Indices, 2019)
- Multiple moves within first 12 months (DCYF Racial Disparity Indices, 2019)
- Length of time in placement (DCYF Racial Disparity Indices, 2019)
- Longer time to reunification (Hill, 2005)

“...[T]he injustices faced by black Americans are not relics of the past. We continue to see racialized policing and the overrepresentation of black Americans in every stage of our criminal and juvenile justice systems.”

- June 2020 Washington State Supreme Court Open Letter to Members of Judiciary and Legal Community



HB 1227: ORIGINS IN SOCIAL SCIENCE → ACCOMPLISHING OUR CHILD WELFARE GOALS

- Legislative Sponsor: Lillian Ortiz-Self, D-Rep, 21st District

KEEPING FAMILIES TOGETHER COALITION:

- ✓ Dave Newell, Shrounda Selivanoff: Children's Home Society of Washington
- ✓ Laurie Lippold: Partners for our Children
- ✓ Carla Arnold: Youthnet
- ✓ Liz Trautman: Mockingbird Society
- ✓ Katie Biron: Fostering Connections and Families
- ✓ Erin Shea McCann, Annie Chung: Legal Counsel for Youth and Children
- ✓ Jill May, Washington Association for Children and Families
- ✓ Tara Urs, King County Department of Public Defense
- ✓ And More!

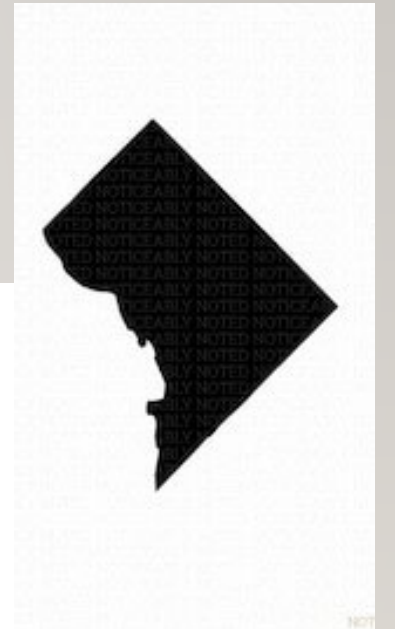
HB 1227: ORIGINS IN SOCIAL SCIENCE → ACCOMPLISHING OUR CHILD WELFARE GOALS

- IMMEDIATE RISK OF PHYSICAL HARM: not new standard. Consistent with emergency removal standard under ICWA. See also *Matter of Dependency of A.W.*, 24 Wn.App.2d 76 (2022) (“ICWA and WICWA both require a showing of **‘physical damage or harm’** and would not be satisfied by a showing of emotional abuse or neglect.”)
- HB 1227’s standard intends to allow the court authority to remove of children upon a showing of **imminent risk of physical harm on an emergency basis**, but in all other cases, requires ordering children to remain in the home of the family and requires the Department to **offer services to protect children pending full adjudication** of the Department’s petition at a fact-finding trial.

HB 1227: ORIGINS IN SOCIAL SCIENCE → ACCOMPLISHING OUR CHILD WELFARE GOALS

Prior to HB 1227: Washington did NOT consider Harm of Removal in making decisions to remove children from families.

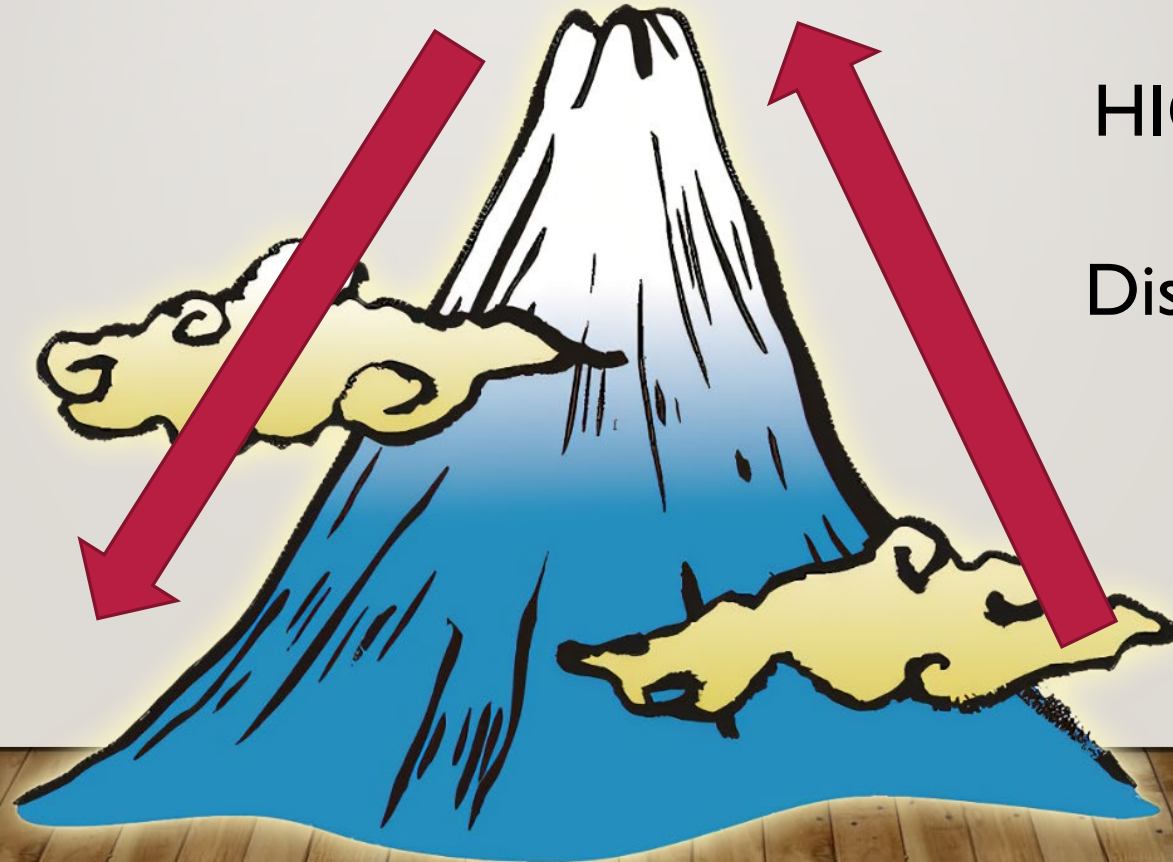
Only NEW YORK and WASHINGTON D.C. required the government to consider harm of removal in their removal statutes.



HB 1227: ORIGINS IN SOCIAL SCIENCE → ACCOMPLISHING OUR CHILD WELFARE GOALS

REMOVAL DECISION

Why shelter
care statute?
REDUCE
System
Discretion



HIGHEST POINT
OF Racial
Disproportionality

HB 1227: ORIGINS IN SOCIAL SCIENCE → ACCOMPLISHING OUR CHILD WELFARE GOALS



“[A]ddressing disparity of placements will reduce disparity in the system overall.”

Graham, J. Christopher (2020). 2019 Washington State Child Welfare Racial Disparity Indices Report (2019). Olympia, WA: Department of Children, Youth, and Families.

QUESTIONS?
COMMENTS?
THANK YOU!



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