



Washington State Office of Civil Legal Aid

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Children's Representation Program
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To: CRP Panel Attorneys

From: CRP Team

Re: Guidance on HB 1227 & Anticipated Position of the AGO regarding foster placements

Date: 7-13-23

OPD and OCLA were notified that the Washington State Attorney General's Office believes it may not be able to identify a prospective foster family at shelter care due to confidentiality concerns, at least where a child was not previously ordered into DCYF care. The AGO is asserting that DCYF is not legally authorized to share confidential information about a child with a prospective foster parent prior to the child being ordered into DCYF care, thus preventing a foster home from accepting placement.

Our concern is that this position could undermine a central tenant of HB 1227 and a critical tool of the Court to conduct child- and family-centered oversight of the child's foster care placement. Under RCW 13.34.065(5)(j)(ii) the Court may order the Department to:

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

Placement decisions directly impact a youth's support systems; cultural identity; contact with family, siblings, friends and other significant relationships; education stability; and connection to pro-social activities available to the youth in their community of origin (e.g. sports or other extracurricular activities in which they youth may be engaged). We believe that the oversight this law allows on foster placement decisions is a powerful tool to center the impact placement has on youth in the court's decision-making.

We wanted to prepare you for when the argument is made at your next shelter care hearing. Attorneys for children should continue advocating for the Court to order a placement that aligns with your client's interests. If the court declines to put conditions on foster placement, do ensure that you create a strong written record of your request and the court's denial, should you deem it necessary to seek appellate review. We further encourage you to request ongoing review of foster placement decisions to ensure the youth's legal rights and interests are being promoted.

Thank you for continuing the fight. If you have any questions or concerns or this is an active issue in your jurisdiction, please let us know at crp@ocla.wa.gov.