

February 2024

# THE Children's Representation Program NEWSLETTER

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### **SB 5805. Revision to the Implementation Schedule of HB 1219**

There is currently a bill moving through the Washington State legislature that would extend full implementation of the Children's Representation Program, HB 1219 (2021), from January 1, 2027, to January 1, 2028. The proposed bill can be found [here](#) and for more on this bill, please click [here](#).

### **King County to Replace Detention Center with Group Homes**

King County hopes to replace its juvenile detention center with a network of group homes by 2028. This vision entails a new receiving and respite center for youth facing serious charges and a broad network of group homes spread across the county to house youth. As you will read in an article by Ann Dornfeld for KUOW, this plan is still being formulated and questions remain about its efficacy. Please read the full article [here](#).

Washington State Office of Civil Legal Aid

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# CASE LAW UPDATES



In the Matter of the Dependency of AT [Opinion Click Here](#)

In the Matter of the Dependency of AT, Division III of the Court of Appeals agreed with AT's father that DCYF's actions fell short of its obligation to provide active efforts. In AT, the father appealed the court's fact-finding and dispositional order. The Court of Appeals noted:

ALTHOUGH THE DEPARTMENT'S SOCIAL WORKERS WORKED EXTENSIVELY WITH THE FATHER, THEY NEVER SPECIFICALLY ENGAGED THE FATHER IN AN EFFORT TO HELP HIM OVERCOME HIS AVERSION TO MENTAL HEALTH TREATMENT.

The Court of Appeals opined that DCYF did a lot of work with the father, even suggesting that "[b]efore the emergency removal of AT from his father's home in September 2022, the Department likely satisfied its obligation [to provide active efforts]." Pg. 21. However, the Court of Appeals noted that the efforts after removal were the same efforts that had failed earlier in the case.

Given that social workers are obliged to persistently engage the parents of Indian children, the active efforts requirement means the Department's workers must engage in self-evaluation, reflection, and a willingness to change strategy. Active efforts must be meaningful. G.J.A., 197 Wn.2d at 895. This requirement is not met by repeating unsuccessful strategies with the hope of a different result. Rather than continuing with efforts that have previously failed, the active efforts requirement demands case workers brainstorm new strategies, tailored to the specific needs of a particular case. Pg. 22. The Court of Appeals went on to find that the record fails to show the Department worked to actively enga-

ge the father in mental health services in a way that might have helped him overcome his resistance to treatment. Pg. 24. Thus, the Court of Appeals reverse the trial courts finding of active efforts.

Yet, the court did not reverse the trial courts out of home placement order. In this situation, the Court of Appeals noted that the proper remedy for the Departments failure to provide active efforts was to return the child home unless doing so would subject the child to substantial and immediate danger or threat of such danger. Pg. 24, citing RCW 13.38.160; 25 U.S.C. 1920; see also A.L.K., 196 Wn.2d at 703-04. In AT, reversal was not warranted as the Court had already made sufficient findings to satisfy the substantial and immediate danger standard. Pg. 25. As such, the Court of Appeals concluded that the juvenile courts order authorizing out-of-home placement was justified, the failure to provide active efforts notwithstanding. Pg. 26.

Here are three new articles from the ABA Litigation Section Children's Rights Litigation Committee. You may find these articles helpful.

**1. [Practical Considerations in Advocating for High-Needs Foster Youth \(americanbar.org\)](#)**

*By Kimberly Abbott*

Cases involving high-needs foster youth can be some of the most challenging, time-consuming, and frustrating cases a children's attorney can handle.

**2. [Tips for Lawyers Representing Children in Foster Care Who Need or Receive Special Education Services \(americanbar.org\)](#)**

*By Leslie Seid Margolis*

Whether a child receives appropriate specialized services and supports can have a significant impact on the child's status in the foster care system.

**3. [Algorithmic Decision-Making in Child Welfare Cases and Its Legal and Ethical Challenges \(americanbar.org\)](#)**

*By Matthew Trail*

Predictive models are sophisticated, but they are based on historical and often aggregate data, and our clients are more than a collection of data points.

## TRAINING UPDATES

**February 2024**

### **Legal Interest Advocacy – An in Depth, Practical Examination, 2024**

The CRP continues to schedule our advanced legal interest training, Legal Interest Advocacy – An in Depth, Practical Examination. We provided this training in Eastern Washington in 2023 and are now bringing it to Western Washington. This training examines the complexities of legal interest representation through hypotheticals and group discussion and is being offered in person at three sites: Everett, Olympia, and Vancouver.

A 10-30 Minute Survey from DCYF and Kauffman and Associates

Kauffman and Associates is looking to speak with parents, guardians, foster-parents and youth 18 years of age or older who are or have received contracted services from the Washington State Department of Children, Youth and Families (DCYF) in the last 2 years. If your client is interested in participating, please see the attached flyer.



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## Do you have 10-30 minutes to tell us how we are doing?

Kauffman and Associates is looking to speak with parents, guardians, foster-parents and youth 18 years of age or older who are or have received contracted services from the Washington State Department of Children, Youth and Families (DCYF) in the last 2 years. If you have received this invitation, that's you!

### What we are asking

**Option A:** Complete a 10-minute survey via zoom or phone to answer direct questions about the services you have received. DCYF wants to know how they can improve their work to help community members such as yourself.

Your responses will be confidential and you will receive a \$25 gift card to thank you for your energy and time.

**Option B:** Speak with us for 30 minutes over the phone or via Zoom to answer direct questions about the services you have received. DCYF wants to know how they can improve their work to help community members such as yourself and receive an additional \$25 gift card for your time.

We want you to feel comfortable. If you would like to bring someone to support you, or if you would like to see the questions ahead of time, please let us know.

The conversation will be confidential and you will receive a \$25 gift card (or \$50 for both) to thank you for your energy and time.

### Interested?

If you are interested, book time with us to conduct the brief eligibility survey (<https://www.surveymonkey.com/r/enduser>). Once eligibility is confirmed, we will email you the link to schedule your interview.

### Who to contact

If you are interested in learning more, please contact Leigh Hayden, Kauffman and Associates, 774-762-7137 or [leigh.hayden@kauffmaninc.com](mailto:leigh.hayden@kauffmaninc.com).