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THE Children's Representation Program NEWSLETTER

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Financial Lifeline Works to Keep Vulnerable WA Youth Housed

This article discusses Washington's efforts to reduce homelessness through Washington's Homeless Diversion and Prevention Fund which provides grants to young people at risk of homelessness. These grants can cover expenses like apartment deposits and car repairs and are available in 10 communities across Washington. The article quotes Kim Justice, executive director of the Office of Homeless Youth, as saying that ninety-two percent of those who accessed these funds remained housed a year later. At the same time, the article is clear that this program does not help everyone. This program is for those who are temporarily in need and not those currently unhoused. Success, the article tells us, hinges on two things:

1. Careful screening of candidates
2. Using community workers with established trust.

Please read the full article [here](#).

Updates to the Gonzaga University School of Law, OPD, and OCLA Children's Rights Justice Initiative

Due to the incredible generosity of Josh and Janae Conaway, Gonzaga University School of Law has announced a \$1 million commitment to the Luis and Jean Conaway Community Justice Project at Gonzaga University School of Law. Included therein is the Conaway Family Children and Parents Representation and Justice Initiative (CF-CRJI), a first of its kind "academic program in the ...continues on next page...

Washington State Office of Civil Legal Aid

Underwriting Justice • Ensuring Accountability

Northwest to train law students and attorneys to effectively represent children and parents in dependency proceedings.” For more on the impact of the Conaway’s generosity, click [here](#). To learn more about the CF-CRJI, click [here](#).

A Reminder of Why MASC Remains Relevant

A recent news article, from Oregon, discussed the story of a child being removed from their mother due to her “low IQ”. This is a compelling reminder of DCYF’s obligation to ensure that parents receive services that meet their needs. We encourage you to re-review *In re Parental Rights to M.A.S.C.*, 197 Wn.2d 685 (2021) and to read the full article [here](#) to understand the context of this important issue.

An Expert Who Testified in Foster Care Cases in Colorado Admits her Evaluations are Unscientific

This article from ProPublica highlights the case of Diane Baird, a social worker and professional expert witness routinely used by Colorado’s child welfare agency who for decades has successfully testified in favor of keeping children in their adoptive foster homes instead of being reunited with their family or birth parents. Baird would assert her assessments followed the “Kempe Protocol”, a made-up bonding and attachment assessment method that relies on the name recognition and reputation of the Kempe Center for the Prevention and Treatment of Child Abuse and Neglect to suggest scientific legitimacy. When confronted, Baird admitted under oath that her method for evaluating foster and birth families was “unpublished and unstandardized, and has remained ‘pretty much unchanged’ since the 1980s. It doesn’t have those ‘standard validity and reliability things,’ she admitted. ‘It’s not a scientific instrument.’”

Who hired and was paying her in the case that she was being deposed about? The foster parents, she answered. They wanted to adopt, she said, and had heard about her from other foster parents.

Had she considered or was she even aware of the cultural background of the birth family and child whom she was recommending permanently separating? (The case involved a baby girl of multiracial heritage.) Baird answered that babies have “never possessed” a cultural identity, and therefore are “not losing anything,” at their age, by being adopted. Although when such children grow up, she acknowledged, they might say to their now-adoptive parents, “Oh, I didn’t know we were related to the, you know, Pima tribe in northern California, or whatever the circumstances are.”

The Pima tribe is located in the Phoenix metropolitan area.

It went on and on like this. Baird acknowledged that her entire basis for recommending that the foster parents keep the baby girl was a single less-than-two-hour observation and interview that she’d conducted with them — her clients. She’d never met the baby girl’s biological grandmother, whom the county child services department had been actively planning for the girl to be placed with, according to internal department emails. Nor had she even read any case documents.

The article is a must read and cautionary tale about accepting an expert and protocol without careful review. Please find the full article [here](#). A deep dive into the family at the center of this article can be found [here](#).

TRAINING OPPORTUNITIES

- Tuesday, March 30, 2024, 12:00 – 1:30 PM. **OCLA Training on Child Development and the Impact of Trauma**, a virtual training (link pending) from Dr. Trella, a professor and director of children’s studies at Eastern Washington University.
- Thursday, May 2, 2024, 12:00 – 1:30 PM. **OCLA Legislative and Case Law Update**, a virtual training (link pending).



LEGISLATIVE UPDATES

The following legislation has passed the legislature and the Governor has acted.

1. SSHB 1205. Relating to responsibility for providing service by publication of a summons or notice in dependency and termination of parental rights cases. Please review the full bill [here](#).

Subject to specific funding provided by June 30, 2024, in a dependency or termination of parental rights proceeding where service by publication is required, the petitioner, rather than the clerk of court, is responsible for publishing notice of the petition and hearing date in a legal newspaper once a week for three consecutive weeks. The petitioner must pay for the cost of publication. If the petitioner is a minor, the Office of Civil Legal Aid (OCLA) must pay for or reimburse the publication costs, and if the petitioner is an indigent parent or legal guardian, the Office of Public Defense (OPD) must pay for or reimburse the publication costs. The requirement that the publication be in a legal newspaper “printed in the county qualified to publish summons” is eliminated.

2. ESHB 1652. Relating to child support pass through. Please review the full bill [here](#).

The Department of Social and Health Services (DSHS) must pass through to a family receiving Temporary Assistance for Needy Families (TANF) all current child support collected on behalf of the family each month. DSHS must disregard and not count as income any amount of current child support passed through to TANF or WorkFirst applicants or recipients when determining eligibility for and the amount of assistance for, needy families or WorkFirst.

3. SSHB 1929: Relating to supporting young adults following inpatient behavioral health treatment. Please review the full bill [here](#).

Subject to the availability of amounts appropriated for this specific purpose by June 30, 2024, the post inpatient housing program for young adults is established to provide supportive transitional housing with behavioral health support focused on securing long-term housing for young adults exiting inpatient behavioral health treatment. Youth must be 18-24 and exiting inpatient behavioral health treatment or have exited within the last month and engaged in a recovery plan, and not have secured long-term housing.

The legislation provides for funding a voluntary, community-based residential program or programs and at least two residential programs with six to 10 beds, one on each side of the Cascade Mountain range. The program supports recovery in a developmentally and culturally responsive environment.

4. SB 5805: Developing a schedule for court appointment of attorneys for children and youth in dependency and termination proceedings. Please review the full bill [here](#).

The legislation extends full implementation of HB 1219 (2021) from 2027 to 2028 under RCW 13.34.212. The new implementation schedule is available on our website, [here](#).

5. SB 5825: AN ACT Relating to guardianship and conservatorship. Please review the full bill [here](#).

This legislation implements changes to RCW 11.130, including mandatory dismissal if the petitioner fails to identify a proposed guardian within 30 days of filing. It adds court-appointed attorney fees for bad faith filings, and also provides that a minor on their own behalf, or a person interested in the welfare of a minor who will obtain the age of majority within 45 days of filing, may petition for appointment of a guardian. It

adds parents to the list of individuals to be named in a petition “if living and involved in” the life of the respondent (individual for whom appointment of a guardian is sought). The legislation requires appointment of counsel within 5 days if the respondent objects to the petition or requests appointment of counsel. The legislation also shortens notice after appointment of the guardian to 14 days instead of 30.

6. ESSB 5908: Relating to the provision of extended foster care services to youth ages 18 to 21. Please review the full bill [here](#) and an article on the changes is located [here](#).

Changes to the EFC program, include:

- DCYF must develop policies and procedures to ensure dependent youth ages 15 and older are informed of the EFC program.
- A dependent youth may sign a voluntary placement agreement to receive EFC services within six months of their 18th birthday and any time after their 18th birthday and may withdraw consent at any time.
- DCYF must provide continued EFC services to nonminor dependents who request EFC. A youth no longer must meet educational or vocational criteria or demonstrate a medical exemption in order to be eligible for EFC.
- EFC services includes a supervised independent living subsidy.
- DCYF may not create additional eligibility requirements and must develop age-appropriate social work supports that includes a codesign process with those with lived experience in the foster care system.
- A youth enrolled in EFC may elect to receive a licensed foster care placement or may live independently. A youth who is not in a licensed foster care placement is eligible for a monthly supervised independent living subsidy effective the date the youth signs the voluntary placement agreement, agrees to dependency, or informs their social worker they are living independently, whichever occurs first.
- DCYF is to pursue federal reimbursement where appropriate, including when a youth is residing in an approved supervised independent living setting.
- If the youth is not residing in an approved supervised independent living setting, DCYF is to work with the youth to help identify an appropriate living arrangement until the youth is living in a safe location approved by DCYF or the court—during this time, DCYF shall continue to pay the monthly supervised independent living subsidy.

The court shall maintain the dependency proceeding for any youth who is dependent at the age of 18 until the youth turns 21 or withdraws their agreement to participate. DCYF is to develop a program to make incentive payments to youth in extended foster care who participate in qualifying activities. The program design is to include stakeholder engagement from impacted communities. Subject to appropriations, DCYF is to make incentive payments to qualifying youth, in addition to supervised independent living subsidies.

7. 2SSB 6006: Supporting victims of human trafficking and sexual abuse. Please review the full bill [here](#).

SB 6006 creates a statewide coordinating committee to facilitate a statewide coordinated response to the commercial sexual exploitation of children, youth, and young adults, to be convened by the office of the attorney general. Duties of the committee include, amongst other things:

- Overseeing implementation of the Washington state model protocol for commercially sexually exploited children at task force sites.
- Receiving reports and data about incidence of commercially sexually exploited children and perpetrators.
- Making policy and legislative, data collection, and strategic investment recommendations.

SB 6006 amends the definition of a dependent child to include a child who “is a victim of sex trafficking or severe forms of trafficking in persons under the trafficking victim’s protection act of 2000, 22 U.S.C. Sec. 7101 et seq., when the parent is involved in the trafficking, facilitating the trafficking, or should have known that the child is being trafficked.” This new definition is codified at RCW 13.34.030(6)(e). SB 6006 also amends the definition of abuse and neglect under RCW 26.44.020(1) to include trafficking as described in RCW 9A.40.100, sex trafficking or severe forms of trafficking in persons under the trafficking victims protection act of 2000, 22 U.S.C. Sec. 7101 et seq. The law also provides in relevant part:

- The department of children, youth, and families, and juvenile justice agencies (law enforcement, diversion units, juvenile courts, detention centers, and persons or public or private agencies having children committed to their custody), to use a validated assessment tool to screen a child for commercial sexual abuse if there is an allegation of or reasonable cause to believe that commercial sexual abuse of a minor under the jurisdiction of the juvenile justice agency has occurred.
- The department to (1) recommend to the legislature the types of services that need to be offered to children who are identified as being a victim of sex trafficking or other severe forms of trafficking, and (2) assess and offer services to dependent children identified as victims of such trafficking. The department may offer services to children identified as victims of such trafficking, who have not been found dependent by a juvenile court.
- The department may file a petition for a sexual assault protection order (SAPO) on behalf of a minor. Similarly, a law enforcement agency may file a petition for an ex parte temporary SAPO on behalf of a minor. A minor’s consent is not grounds to deny a SAPO when the petition alleges commercial sexual abuse or sex trafficking.

8. E2SSB 6068: An act relating to reporting on dependency outcomes. Please review the full bill [here](#).

This legislation adds a section stating that dependency courts should work to ensure the well-being of dependent children and that every young person who leaves foster care has relational permanency, meaning they have various long-term relationships with siblings, extended family, mentors, tribes, and others that help them feel loved and connected. While legal permanency achieved through reunification, guardianship, or adoption is important, it is not the only way to provide a sense of belonging and meaningful connections for young people and that legal permanency alone does not guarantee secure attachments and lifelong relationships.

This legislation requires the Administrative Office of Courts (AOC) to, in consultation with others, identify measures of relational permanency and child well-being and report to the Legislature by July 1, 2025, the following information:

- a plan for reporting on child well-being and relational permanency;

- a plan for tracking and reporting on whether an order or portion of an order was agreed or contested, and if contested, by which party or parties;
- how many children in dependency have incarcerated parents;
- how to make such information publicly available;
- what can be reported using existing data;
- what additional information should be collected; and
- what data-sharing agreements are necessary to ensure an accurate picture of the needs of families in the dependency system.

AOC must consult and may enter data sharing agreements with the Office of the Superintendent of Public Instruction, Health Care Authority, DCYF, DSHS, and the Department of Corrections. It must also consult with , and tribal data experts and any other entity holding relevant data or expertise.

9. E2SSB 6109. Supporting children, families, and child welfare workers by improving services and clarifying the child removal process in circumstances involving high-potency synthetic opioids. Please review the full bill [here](#).

The legislature found a significant increase in child fatalities and near fatalities involving fentanyl since 2018 and described this is a “unique and growing threat to the safety of children in Washington State.” HB 6109 is intended “to provide clarity to judges, social workers, advocates, and families about the safety threat that potency synthetic opioids pose to vulnerable children” by giving great weight to the lethality of high-potency synthetic opioids and public health guidance from the DOH related to high-potency synthetic opioids.

SB 6109 defines a "High-potency synthetic opioid" as an unprescribed synthetic opioid classified as a schedule II controlled substance or controlled substance analog in chapter 69.50 RCW or by the pharmacy quality assurance commission in rule including, but not limited to, fentanyl.

Related to pick up orders, SB 6109 adds the following underlined language:

RCW 13.34.050(1) ... The allegations contained in the petition, if true, establish that there are reasonable grounds to believe that removal is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, a pattern of severe neglect, or a high-potency synthetic opioid. The court shall give great weight to the lethality of high-potency synthetic opioids and public health guidance from the department of health related to high-potency synthetic opioids in determining whether removal is necessary to prevent imminent physical harm to the child due to child abuse or neglect.

Related to the shelter care hearing, SB 6109 adds the following underlined language:

RCW 13.34.065(5)(a)(ii)(B)(I)... 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, a high-potency synthetic opioid, or a pattern of severe neglect, notwithstanding an order entered pursuant to RCW 26.44.063. The evidence must show a causal relationship between the particular conditions in the home and imminent physical

harm to the child. The existence of community or family poverty, isolation, single parenthood, age of the parent, crowded or inadequate housing, substance abuse, prenatal drug or alcohol exposure, mental illness, disability or special needs of the parent or child, or nonconforming social behavior does not by itself constitute imminent physical harm. The court shall give great weight to the lethality of high-potency synthetic opioids and public health guidance from the department of health related to high-potency synthetic opioids when determining whether removal of the child is necessary to prevent imminent physical harm due to child abuse or neglect.

...

RCW 13.34.065(5)(b)(i) ... Whether participation by the parents, guardians, or legal custodians in any prevention services would prevent or eliminate the need for removal and, if so, shall inquire of the parent whether they are willing to participate in such services. If the parent agrees to participate in the prevention services identified by the court that would prevent or eliminate the need for removal, the court shall place the child with the parent. The court shall give great weight to the lethality of high-potency synthetic opioids and public health guidance from the department of health related to high-potency synthetic opioids when deciding whether to place the child with the parent.

...

RCW 13.34.065(5)(c)(i)(A) ... Placement in licensed foster care is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, a high-potency synthetic opioid, or a pattern of severe neglect, because no relative or other suitable person is capable of ensuring the basic safety of the child.

Related to dispositional hearings, SB 6109 adds the following underlined language:

RCW 13.34.130(6)(c) The court finds, by clear, cogent, and convincing evidence, a manifest danger exists that the child will suffer serious abuse or neglect if the child is not removed from the home and an order under RCW 26.44.063 would not protect the child from danger. The court shall give great weight to the lethality of high-potency synthetic opioids and public health guidance from the department of health related to high-potency synthetic opioids, including fentanyl, when deciding whether a manifest danger exists.

Related to law enforcement protective custody, SB 6109 adds the following underlined language:

A law enforcement officer may take, or cause to be taken, a child into custody without a court order if there is probable cause to believe that taking the child into custody is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, a high-potency synthetic opioid, or a pattern of severe neglect, and the child would be seriously injured or could not be taken into custody if it were necessary to first obtain a court order pursuant to RCW 13.34.050. The law enforcement agency or the department investigating such a report is hereby authorized to photograph such a child for the purpose of providing documentary evidence of the physical condition of the child.

Related to hospital holds, SB 6109 adds the following underlined language:

An administrator of a hospital or similar institution or any physician, licensed pursuant to chapters 18.71 or 18.57 RCW, may detain a child without consent of a person legally responsible for the child whether or not medical treatment is required, if there is probable cause to believe that detaining the child is necessary to prevent imminent physical harm to the child due to child abuse or neglect, including that which results from sexual abuse, sexual exploitation, a high-potency synthetic opioid, or a pattern of severe neglect, and the child would be seriously injured or could not be taken into custody if it were necessary to first obtain a court order under RCW 13.34.050: PROVIDED, That such administrator or physician shall notify or cause to be notified the appropriate law enforcement agency or child protective services pursuant to RCW 26.44.040.

In order to apply for grants from the family and juvenile court improvement grant program, the superior court's local improvement plan must include the requirement that court commissioners and judges receive a minimum of 30 hours specialized training including the risk and danger presented to children and youth by substance use disorders and the legal standards for removal of a child based on abuse or neglect. This training will also be available to other professionals involved in child welfare court proceedings.

Subject to appropriations:

- DCYF is to establish a pilot program for contracted childcare slots for infants in areas with the historically highest rates of child welfare screened-in intake due to the parental substance use disorder was a factor in the case.
- DCYF is to enter into targeted contracts with existing home visiting programs in areas with the historically highest rates of child welfare screened-in intakes.
- A legal liaison within each region in DCYF for the purpose of assisting with the preparation of child abuse and neglect court cases involving allegations of high potency synthetic opioids.
- HCA will expand specific treatment and services to children and youth with prenatal substance exposure who would benefit from evidence-based services impacting their behavioral and physical health.
- DCYF will establish two pilot programs to implement an evidence-based, comprehensive, intensive, in-home parenting services support model.
- DCYF is to convene a work group on children and exposure to fentanyl.
- DOH shall support Promotoras in at least two communities. One community on each side of the state.
- DCYF is to establish a pilot program to include third-party safety plan participants and public health nurses in child protective services safety planning.