

October 2024



# THE Children's Representation Program NEWSLETTER

## IN THIS ISSUE:

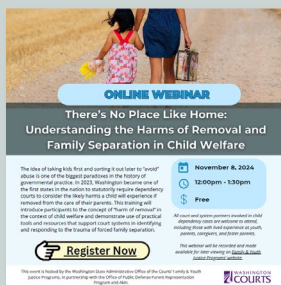
- Yakima Conference 2024
- Anti-Racist Lawyering
- Number of Kids in Foster Care Continues to Fall
- In re Dependency of BBB
- In re Dependency of ZA

### ONLINE WEBINAR

There's No Place Like Home: Understanding the Harms of Removal and Family Separation in Child Welfare

November 8, 2024, 12:00 pm – 1:30pm

Registration: [Here](#). Cost: Free.



### Keeping Families Stronger Together Conference 2024

Thank you to all who joined us in Yakima for the second annual Keeping Families Stronger Together Conference. We heard from lived expert Angela Tucker, who addressed systemic issues inherent in transracial adoption; we explored ABA resolution 606 and the impact of racism on the development of laws concerning child welfare practice; we learned about Department of Health guidance on high-potency synthetic opioids; and we got the honor of hearing King County District Court Judge Andrea Jarmon expand on the importance of this work through her experience as a homeless youth, work as an attorney, and time as a judge.

We hope that you found the content meaningful and beneficial. If you have not already done so, please be sure to provide us [feedback](#) on what you liked about the conference and what we might do better in the future. We want these events to be responsive to your needs as practitioners, so please take a moment to share your thoughts!

Washington State Office of Civil Legal Aid

Underwriting Justice • Ensuring Accountability

## Children's Representation Resources



If you are interested in joining CYRAH, please find the link [here](#).



Please find a link [here](#) to the NACC's youth empowerment resources, including your case, your rights map, interactive journal, and companion guide.



### The Mockingbird Society

If you know a youth that is between the ages of 13 and 25 and interested in joining one of Mockingbird's regional chapters, information on their regional meetings can be found [here](#).

### Anti-Racist Lawyering in Practice Tool is Live

The Family Justice Initiative Race Equity workgroup has released their anti-racist lawyer in practice website. According to a recent release from the FJI in their newsletter, this tool contains "resources, ideas, checklists, instructions, and templates for defense practitioners and multi-disciplinary professionals to examine the harm that children – particularly Black, Native American/Alaskan Native, and Hispanic children – have experienced in the child welfare system and to intentionally adopt culturally responsive approaches and legal acumen driven by the needs of parents, children, youth, and families." For more on this tool, click [here](#).

### Number of Kids in Care Continues to Fall

The number of children in foster care has dropped nearly in half, from 9,179 in 2018 to 4,971 currently. According to a recent article, this drop is significant given that the number of reports requiring face-to-face responses has remained largely unchanged. This trend, it is argued, is the result of a shift in priorities and a movement to keep children in home with services. At the same time, others are concerned that this trend is leading to the increase in near-death and deaths because of the fentanyl epidemic. The full article can be found [here](#).

### In re Dependency of BBB

Baby Boy B., No. 102344-8 (August 29, 2024).

The Washington State Supreme Court held that the shelter care statutes require shelter care hearings every 30 days so long as the child is in shelter care. "A shelter care order is an extraordinary measure and is intended to be an interim solution in place for a short time." To read the full opinion, click [here](#).



## In re Dependency of ZA

On August 22, 2024, the Washington State Supreme Court issued a unanimous opinion holding that the standard of proof the State must meet to place a child out of their family home where there is no parent or guardian available to care for such child is a preponderance of the evidence.

In ZA, the father argued that he was physically present and willing to take the children and, by definition, he was available. Citing to RCW 13.34.130(6)(c), the father asserted that the court must only order out-of-home placement under the more stringent standard with a showing of clear, cogent, and convincing evidence that a manifest danger exists of serious abuse or neglect, as articulated in RCW 13.34.130(6)(c). However, the trial court disagreed and placed the children out of the father's home on a finding that the father was not available and applying a preponderance of the evidence standard under RCW 13.34.130(6)(a).

On appeal, the Court of Appeals reversed the trial court, finding that RCW 13.34.030(6)(a) required the Department "to prove by clear, cogent, and convincing evidence that a parent's deficiency jeopardizes the child's rights to conditions of basic nurture, health, or safety in circumstances where an in-home placement would pose a manifest danger to the children." The Supreme Court opined that "RCW 13.34.130(a) does not articulate a burden of proof," and that "[t]he general standard of proof in civil cases, including child welfare cases, is a preponderance of the evidence." And this preponderance standard for "nondispositive decisions like temporary placement at a dispositional hearing satisfies due process." Noting that the legislature may impose a higher standard of proof, as the legislature did in RCW 13.34.130(6)(c), the Supreme Court noted that the legislature did not impose this higher standard on the entire disposition statute. Therefore, the Supreme Court conclude that the legislature intended to impose the preponderance of the evidence standard to RCW 13.34.130(6)(a).

The Supreme Court went further and rejected the father's argument that "available" meant "physically available." The Supreme Court agreed with the Court of Appeals in WWS (14 Wn. App. 2d 342 (2020)), holding that "'available' must refer to something more than physical availability." "Under the plain language, read in context, if a parent is not capable of caring for the child, they are not available to care for the child." This interpretation, according to the Supreme Court, is "bolstered by the fact that since W.W.S., the legislature has taken no action to disapprove of it by legislatively imposing a higher standard of proof." Recognizing the significance of this decision, the Supreme Court opined that "we must leave further development of that standard for future cases, at the very least when a court concludes a parent does not have the capacity to care for a child, it is not an abuse of discretion to conclude that parent is not available to care for the child under RCW 13.34.130(6)(a)."

Read the full opinion [here](#).

Washington Association of Child Advocate Programs  
Child Welfare Regional Fentanyl & HPSO Child and Family Safety Summits

Locations & Dates

Quincy, October 30, 2024, Tri Cities, November 6, 2024, Kelso, November 14, 2024, & Spokane, November 18, 2024

HPSO  
Regional  
Symposia  
Link [Here](#)