Spring 2025

2025 CASE LAW AND LEGISLATIVE UPDATE

Dependency Courts

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Case Law Updates

In re Dependency of N.B.G. and A.R.G.

31 Wn. App. 2d 311, 551 P.3d 1045 (2024) (Court of Appeals, Division I)
7/8/2024
Link

QUESTIONS	ANSWERS
1. What defines an "available" guardian under RCW 13.34.180(1)(f)? 2. What must DCYF do to meet its obligations to support a guardianship (in an alternative to termination)? 3. Does an order directing DCYF to file a termination petition contravene the separate of powers doctrine?	1. Availability of a guardian is a fact-specific inquiry, however, when a guardian indicates a preference for adoption over guardianship, that may be enough to make a guardian unavailable to serve in a guardianship. 2. Whether DCYF met its obligations is a case-specific inquiry, however, when DCYF personnel had at least five conversations with the fictive kin regarding the availability of guardianship as an alternative to termination, DCYF met its obligations to support a guardianship. 3. When a court orders that DCYF "should" file a termination petition (as opposed to "shall" file a termination petition), the separation of powers doctrine is not implicated and the order is permissive, rather than a directive.

FACTS

Father requested DCYF to place his children with fictive kin. DCYF ultimately filed a termination petition. During the trial, the fictive kin was questioned about her willingness to enter into a guardianship for the children and whether she had discussed guardianship with DCYF. The fictive kin testified that she did not want to serve as a guardian because she wanted to adopt the children and wanted the certainty that nothing would disturb the children's life with her. The fictive kin and DCYF personnel testified that there had been at least five conversations between the two about guardianship as an alternative to termination.

ANALYSIS

RCW 13.34 requires a two-step process for terminating parental rights. DCYF must first meet six statutory elements and then establish that terminating a parent's rights is in the child's best interest. The sixth statutory element requires a showing that "continuation of the parent and child relationship clearly diminishes the child's prospects for early integration into a stable and permanent home. In making this determination, the court must consider the efforts taken by the department to support a guardianship and whether a guardianship is available as a permanent option for the child." RCW 13.34.180(1)(f).

The viability of a guardianship as an alternative to termination is a case-specific inquiry and, "even when an identified guardianship is available, there will be circumstances under which termination, rather than guardianship, is the appropriate course of action." *In re Welfare of R.H.*, 176 Wn. App. 419, 429, 309 P.3d 620 (2013).

The testimony of the fictive kin in this case demonstrated a clear preference for adoption and that she was willing to serve as a guardian only if coerced. The Court found this to be substantial evidence that the fictive kin was unwilling and unavailable to serve as a guardian.

The submitted evidence revealed that the fictive kin had at least five different conversations with DCYF personnel regarding guardianship. The Court found that there was substantial evidence to support a finding that DCYF had "supported" efforts to secure a guardianship when guardianship was explained to and discussed with the fictive kin multiple times.

The Court found that the trial court's order regarding the filing of a termination petition was not mandatory, but that the order stated that "DCYF *should* file a termination petition." The Court read the order as being permissive rather than directive (should versus shall). Accordingly, the separation of powers doctrine was not implicated.

In re Dependency of Z.A.

3 Wn.3d 530, 553 P.3d 1117 (2024) (Supreme Court)
8/22/2024
Link

QUESTION	ANSWER
What is the standard of proof required to place a child out of the family home under RCW 13.34.130(6)(a)?	In order to place a child in out of home care under RCW 13.34.130(6)(a), DCYF must prove, by *a preponderance of the evidence*, that there is no parent available to care for the child.

FACTS

Mother struggled with drug addiction and mental health challenges. The Court determined the children were dependent as to Mother and placed the children with Aunt. Some months later, Father moved to Washington and the trial court concluded that the children were dependent as to Father.

At disposition, DCYF argued that Father was not available to parent under RCW 13.34.130(6)(a), because he did not understand their needs, did not have a plan for caring for them, and would not protect them from the dangers presented by Mother's conduct. Father argued that because he was physically present at the disposition hearing, he was available and, in order for the children to be kept out of home, DCYF had to prove under RCW 13.34.130(6)(c), by the more stringent clear, cogent, convincing evidence standard, that "a manifest danger exists that the child[ren] will suffer serious abuse or neglect if the child[ren] [are] not removed from the home."

ANALYSIS
RCW 13.34.160(6)(a) authorizes the Court to place a child in out of home care when "there is no parent or guardian available to care for such child." There is no standard of proof contained within subsection (a). Generally, in civil cases, unless a more stringent evidence standard is explicitly required, the standard of proof is a preponderance of the evidence. A higher evidentiary standard is included in subsection (c) but is not included in (a). Accordingly, there is no authority to deviate from the norm and the appropriate standard is the preponderance of the evidence. Subsection (a) also does not require proof of a manifest danger that a parent is not available. Additionally, the word "available" in RCW 13.34.130(6)(a) means something more than just physical availability. "[A]t 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 the parent is not available to care for the child . . . ."

In re Dependency of Baby Boy B.

3 Wn.3d 569, 554 P.3d 1196 (2024) (Supreme Court)
8/29/2024
Link

QUESTION	ANSWER
Does RCW 13.34.065(7) require superior courts to hold shelter care review hearings every 30 days as long as a child is in shelter care?	Yes. Absent a valid waiver or agreed continuance, the statute requires a superior court to hold a shelter care review hearing every 30 days, even if there are no allegations of a change in circumstances.

FACTS
Baby Boy was removed from the care of Mother shortly after birth and placed in relative care at the initial 72-hour shelter care hearing. Shelter care hearings were held in April, May, and June, where there were no contested issues and the case remained in status quo. The court declined to set additional 30-day hearings, absent a filing of a request for a hearing based on a change in circumstances. The Court of Appeals agreed, holding that while the statute required an *order* every 30 days, it did not necessarily require a *hearing* every 30 days.

ANALYSIS
While the statute, in isolation, does not require a hearing, the use of the word "order" implies that the parties be afforded an opportunity to be heard before an order is issued. Requiring judicial review during shelter care is consistent with the court's continued oversight obligations throughout dependency and termination proceedings, as well as the legislative goal of reducing the disproportionate removal of children of color from their families. A shelter care order is an extraordinary measure and is intended to be an interim solution in place for a short time, because the order separates a child from their family after only a minimal evidentiary showing. Under these circumstances, requiring the

superior court to routinely inquire into the need for ongoing shelter care is critical to reuniting the family as soon as is safely possible, holding parties accountable, ensuring that the case proceeds either to dismissal or dependency, and ensuring the "health, welfare, and safety of the child."

In re Dependency of A.H.

3 Wn.3d 600, 554 P.3d 1189 (2024) (Supreme Court)
8/29/2024
Link

QUESTIONS	ANSWERS
1. Does RCW 13.04.033(3) require a lawyer for a parent in a child welfare care to obtain "specific direction" from the client before seeking an appeal? 2. Does RCW 13.04.033(3) require a separate, sworn and signed statement from the client, attesting that the client gave the lawyer specific direction to seek review?	1. Yes. RCW 13.04.033(3) requires a lawyer to have "specific direction" from the client to seek an appeal. 2. No. The legislature did not state that it requires a separate, sworn document or signature from a client.

FACTS

This is a reason to know ICWA case. Mother struggled with mental health and substance use challenges, as well as homelessness. The Court ordered the children into shelter care, but that was reversed on appeal on the grounds that DCYF failed to apply the active efforts standard. On remand, the Court kept the children in shelter care, finding that to return them to Mother would place them "in substantial and immediate physical, emotional, and psychological danger or threat of such danger." Mother appealed again.

The Court of Appeals granted DCYF's request to dismiss Mother's second appeal on the grounds that Mother's counsel had not "filed a specific direction" to seek review, signed by Mother.

ANALYSIS

The plain language of the statute requires an attorney to have "specific direction" or guidance from a client about seeking appellate review before filing a notice seeking such review. This requirement for "specific direction" applies to any party, including DCYF and potentially children, seeking review under Title 13 RCW. That direction does not necessarily need to be written, signed, or sworn. A notice of appeal or notice for discretionary review that complies with RAP 5.3 fully satisfies the "specific direction" requirement. If the attorney lacks that "specific direction," the court can, at its discretion, dismiss the review.

In re Dependency of E.M., J.M., and I.M.

3 Wn.3d 845, 557 P.3d 264 (2024) (Supreme Court)
10/17/2024
Link

QUESTION	ANSWER
Are dependency fact-finding hearings and disposition hearings separate proceedings, subject to different rules and serving different purposes?	Yes. A trial court's determination of services is part of the disposition hearing, at which the rules of evidence do not apply.

FACTS

DCYF filed a dependency petition as to the three children. Among other allegations, DCYF alleged that Father had been charged for multiple domestic violence incidents against Mother, including when the children were present. Father entered into an agreed Order of Dependency that included the Court's recognition of the domestic violence allegations.

At the disposition hearing, the Court heard hearsay evidence regarding the domestic violence allegations. The trial court allowed the evidence and entered an order that found that the children had witnessed domestic violence in the home and there was a need for a domestic violence assessment and recommended treatment.

On appeal, the Court of Appeals upheld the dependency and disposition order, but held that the trial court should have excluded the hearsay evidence, reasoning that the hearing on domestic violence services was an extension of the fact-finding hearing and that a disposition hearing was intended to address only placement.

The Supreme Court granted review to provide clarification on the difference between dependency fact-finding hearings and disposition hearings.

ANALYSIS

The dependency statutes, when read as a whole, show that a determination of court-ordered services is part of a disposition hearing, *not* part of a fact-finding hearing. The sole determination at a fact-finding hearing is whether a child is dependent. If a child is determined to be dependent, the case then proceeds to a disposition hearing, where the court must address both placement of the child and services for the parents.

The rules of evidence apply at a fact-finding hearing, but need not apply at a disposition hearing under ER 1101(c)(3). Accordingly, it was not improper for the court to consider the hearsay evidence regarding the domestic violence allegations at the hearing on domestic violence services because the hearing was part of the disposition hearing and not a fact-finding hearing.

In re Dependency of M.L.W. and I.A.W.

4 Wn.3d 53, 558 P.3d 919 (2024) (Supreme Court)
11/14/2024
Link

QUESTIONS	ANSWERS
1. Does a third party have standing to raise another party's right to family integrity in the third party's appeal? 2. In this particular case, was there substantial evidence to support a finding that DCYF had offered all necessary services as required by RCW 13.34.180(1)(d)? a. Was there evidence that a social worker's decision not to refer a particular service based on racial bias?	1. No. When the other party was represented by counsel at the trial court and raised the issue at trial, but declined to raise it again on review, the third party does not have standing to raise the issue in the third party's appeal. 2. Yes. There was substantial evidence to support a finding that DCYF offered all necessary services. a. No. The record lacks support for the argument that the social worker's decision was based on racial bias or were otherwise unreasonable.

FACTS

A dependency was filed as to three children – two younger children and a teenager. Mother was unable to consistently engage in or complete the court-ordered or recommended services. DCYF filed for termination.

Mother requested new treatment providers because she felt that her current providers were not culturally competent. Mother was referred to a new substance abuse counselor and a new mental health counselor, both of whom were Black women. The social worker inquired with one of the children's therapists as to whether family therapy was appropriate; based on that conversation, the social worker concluded that family therapy would not be appropriate until reunification was closer.

Mother was later referred to a Native parenting counselor who recommended a therapeutic intervention "like family counselor or something." The social worker spoke with the parenting counselor about the family therapy recommendation. That provider did not specify when family therapy should occur but thought that it would be important that the youngest child's therapist weigh in on whether the child was old enough to participate and that the least intrusive way to provide family therapy would be for one of the children's therapists to facilitate the sessions. The children were not in therapy at the time, and the social worker decided not to refer the service, relying on the prior therapist's recommendation.

The termination petition as to the eldest child was dismissed, as he was 14 and objected to adoption. He then asserted, through counsel, that he wanted to participate in the termination trial of the younger siblings, expressing that he had "a stake in the

proceedings regarding his sisters because his sibling and familial relationship with them would be jeopardized by the termination." The court denied his request to intervene, and he did not appeal that decision.

At termination, the court found that family therapy was not yet a necessary service because reunification was not imminent and found that DCYF offered or provided all necessary services. The court terminated Mother's rights.

ANALYSIS

In some circumstances, the due process right to family integrity may support permissive intervention under CR 24, however, Mother does not have third party standing to raise the child's constitutional right for him on appeal.

In order to raise a legal right on behalf of another, the litigant seeking to raise a third party's right must demonstrate three factors: (1) the litigant has suffered an "injury in fact," giving them a concrete interest in the outcome of the issue in dispute; (2) the litigant has a close relation to the third party; and (3) something hinders the third party's ability to protect their own interests. *Powers v. Ohio*, 499 U.S. 400, 111 S. Ct 1364, 113 L. Ed. 2d 411 (1991).

A parent appealing a termination order does not have automatic standing to raise a violation of their child's due process rights on appeal without establishing the prerequisites to third party standing. In this case, the youth was not the subject of the termination proceedings, had counsel, moved to intervene at the trial court level, and could have appealed the trial court's denial of his request to intervene. In a termination appeal, a parent must establish third party standing to raise a due process claim on behalf of a child who is represented by counsel and who is not the subject of the termination action.

The first two elements of the third party test are met, but the third requirement has not been met: There is nothing in the record that shows that the youth was hindered in his ability to protect his own interests. A third party's representation by legal counsel strongly suggests that they have the ability to assert their own rights. In addition, no hindrance exists if the third party actually asserts their own rights.

This decision is solely based on standing and does not disturb prior decisions holding that the due process clause protects the right to family integrity. Disagreeing with the Court of Appeals holding that "children 'have no legal interest [in sibling relationships] beyond what is found in dependency statutes for limited contract facilitated by the Department,"" the Supreme Court reemphasized the holding of MSR "that the constitutional right to family integrity protects a child's interest in sibling relationships."

Substantial evidence supports the trial court's finding that family therapy was not a necessary service because it couldn't correct the primary parental deficiency – substance abuse – within the foreseeable future.

Mother's argument that the social worker's decision to defer family therapy was not reasonable and reflected a racially biased viewpoint was raised for the first time on appeal. Mother's argument that systemic racial bias exists within the child welfare system is compelling and well supported, but the Court relied on the factual record before it. Substantial evidence in the record supports the trial court's conclusions that the social worker's decision to defer family therapy was reasonable, and the record did not support

the conclusion that the social worker's decision demonstrates racial bias. The record shows that DCYF offered many services to Mother, including with preferred providers and that the decision to defer family therapy was not made unilaterally, but in consultation with providers.

Concurring/Dissenting Opinion: The recommended services were appropriate, culturally relevant, and necessary and DCYF failed to provide such services. However, given the length of time the children have been in care and the issues regarding the necessity of permanence, reversal of the termination of parental rights would be harmful in this case. The record provided on appeal does not have sufficient information to decide that racial bias *did not* affect the social worker's decision not to move forward with the family therapy recommendation. This case should have been remanded for a hearing on the issue of racial bias.

In re Dependency of A.G.L, A.S.L., and L.E.L.

32 Wn. App. 2d 787, 561 P.3d 277 (2024) (Court of Appeals, Division I)
12/23/2024
Link

QUESTION	ANSWER
Was it proper for a Superior Court to enter a default judgment and later deny a request to vacate the judgment when a parent fails to present sufficient evidence to establish either (1) a prima facie defense to the termination or (2) that his absence from the hearing arose from excusable neglect?	Yes.

FACTS

A dependency was filed as to all three children after an incident where Father was arrested for domestic violence against Mother while she was holding one of the children. Father allegedly left the scene under the influence with the children in the vehicle.

Father entered into an agreed Order of Dependency but failed to engage in the dependency process or visit the children. Approximately 15 months after the Order of Dependency was entered, DCYF filed a petition to terminate Father's rights and personally served Father with the summons while he was in jail. Father was released from jail a few weeks later and did not attend the termination trial. His dependency counsel appeared but did not know where Father was. The court heard testimony and entered a default judgment terminating Father's parental rights.

Father later contacted his dependency attorney and moved to vacate the default judgment, claiming that he had lost the summons while in jail, had forgotten the hearing date, and had assumed that he was represented by the attorney handling the dependency. The court denied the motion to vacate, and Father appealed.

ANALYSIS
Default judgments are disfavored, as the preference is to resolve cases on the merits. The primary concern when deciding to set aside a default judgment is whether justice is being done. Under CR 60(b)(1), a party seeking to vacate a default judgment must demonstrate four things: (1) there is substantial evidence to support a prima facie defense to the underlying claim; (2) failure to timely appear was because of mistake, inadvertence, surprise, or excusable neglect; (3) the moving party acted with due diligence after learning of the default judgment; and (4) no substantial hardship will result to the opposing party. Father claimed that his defense to the termination was that DCYF failed to show that he was currently unfit to parent and that termination was in the children's best interest. The Court acknowledged that Father had completed chemical dependency treatment but noted that there was nothing in the record that Father had addressed his other parental deficiencies, namely mental health and domestic violence concerns. Father also made generalized arguments about the connection between his treatment efforts and the needs of this children, and generalized argumentation is inadequate to put forth a prima facie defense as to whether a parent is capable of parenting the particular child given the child's specific, individual needs. The Court was sympathetic to Father's claims regarding the loss of the summons in jail and his confusion about appointed counsel but found that DCYF had served Father with the pattern form summons for termination cases, which explicitly identified when and where the termination action was and that he needed to reapply for counsel to represent him at the termination. His arguments did not demonstrate excusable neglect. The Court also determined that the trial court did not abuse its discretion in finding that the equities weighed in favor of denying the motion to vacate. The trial court properly considered the children's interest in a stable and permanent home and the delay and disruption that would be caused by the vacation of the order of default outweighed Father's interest in having the default order vacated. The Court affirmed the trial court's denial of Father's motion to vacate the default judgment terminating his parental rights.

Atkerson v. State of Washington, Department of Children, Youth, and Families

562 P.3d 1256 (Wash. 2025) (Supreme Court)
2/6/2025
Link

QUESTION	ANSWER
1. What is the standard for conferring immunity from tort liability upon the Department for their acts or omissions in emergent placements	1. The Department's tort liability standard in cases of emergent placement investigations is gross negligence.

investigations of child abuse and neglect? 2. Did the trial court err in excluding expert evidence from a retired judicial officer under ER 403?	2. Yes, the trial court erred in excluding expert evidence from a retired judicial officer under ER 403.

FACTS

One-year-old Rustin broke his arm while he was in the care of his mother. DCYF investigated. Two weeks after the original referral and while the investigation while still in progress, Rustin suffered severe head trauma, which eventually resulted in his death.

The father and the child's estate sued DCYF, arguing its negligent investigation caused Rustin's death. DCYF moved for summary judgment, asserting that the plaintiffs would have to establish both (1) that DCYF acted with gross negligence in a child abuse investigation and (2) the investigation resulted in a harmful placement decision. In support of its summary judgment motion, DCYF offered a declaration from a retired judge, who would have testified that a reasonable judicial officer would likely not have removed Rustin from his mother's care before he received his fatal injury based on the information known to DCYF at the time.

The trial judge denied DCYF's motion for summary judgment, concluding that Atkerson need only prove that DCYF was negligent, not grossly negligent. The trial court largely granted Atkerson's motion to exclude the retired judge's testimony, finding that the testimony would be unduly prejudicial under ER 403. The Court of Appeals reversed, concluding the applicable standard of care was gross negligence and also held that the trial court erred in striking the retired judge's testimony. Atkerson sought discretionary review, which was granted.

ANALYSIS

The Supreme Court analyzed RCW 4.24.595(1). The Court rejected Atkerson's argument that the statute should be limited to "emergent" investigations in the 72-hour period before a shelter care hearing. The Supreme Court found that the statute does not apply only to acts or omissions that result in shelter care hearings, but to "any determination to leave a child with a parent . . . or to return a child to a parent." The Supreme Court interpreted this statutory language as separate and unrelated to investigations prior to a shelter care hearing because, in those circumstances, no decision has been made to remove, or to petition to remove, the child from the home. In its analysis, the Supreme Court held that RCW 4.24.595 applies to child abuse investigations conducted under RCW 26.44.

The Supreme Court reviewed the trial court's decision to exclude the retired judge's testimony under an abuse of discretion standard. The Court concluded that the trial court improperly excluded the retired judge's testimony under ER 403 because the testimony went to one of the core issues in the case – whether any negligence by the State caused a harmful placement decision – and nothing in the record suggested that the probative value was outweighed by the mere potential prejudicial effect of having a retired judge testify. The Court found that the trial court is in the best position to guard against any unfair prejudice by appropriately limiting actual testimony at trial or through offering an appropriate jury instruction. The Court rejected Atkerson's argument that a retired judge cannot testify due to the nature or prestige of their office, or that the judicial canons

prohibit such testimony. Judges have previously been permitted to testify at trial, and appropriate objections can prevent a judge from veering into testifying as to the law.

Dissent: The dissent would have held that DCYF's investigation did not fall within RCW 4.24.595(1)'s definition of an "emergent placement investigation" because "emergent placement investigations" are those conducted before a shelter care hearing and no shelter care hearing was ever scheduled. The dissent reasoned that RCW 4.24.595 establishes a short-term period where DCYF has heightened protection from negligence liability until DCYF's actions are judicially reviewed and either confirmed or rejected by a judicial officer. The dissent determined that the majority's interpretation resulted in a heightened standard of liability applying for an unlimited window of time in cases where no shelter care hearing occurs.

In re Dependency of B.H.-W.

564 P.3d 1000 (Wash. Ct. App. 2025) (Court of Appeals, Division II)
3/5/2025
Link

QUESTION	ANSWER
Does an alleged biological parent have standing to appear in a dependency case?	Yes. Alleged biological parents have standing to be given notice and an opportunity to appear, to assert their position, and to participate until their biological parentage claim is determined. An alleged biological parent does not fall under chapter 13.34 RCW's definition of "parent" and does not have the same rights as parents who meet the statutory definition.

FACTS

B.H.W. was born substance affected. A dependency petition was filed that identified an alleged Father, JW. The trial court dismissed JW from the dependency, concluding that alleged fathers categorically lack standing to participate in dependency proceedings until they establish parentage and that a court could not establish a dependency, shelter care, or order services regarding an alleged father who had not yet established paternity.

ANALYSIS

"Parent" is defined in RCW 13.34.030(19) and does not include "alleged" biological parents, as that language is not specifically drafted therein. Under the plain language of the statute, an alleged biological parent does not have statutory standing in a dependency case under RCW 13.34.030(19), and an alleged biological parent does not have the same right as a "parent" under RCW 13.34. The court declined "to delineate further what rights they do have…"

Under a constitutional due process analysis, however, alleged biological parents do have standing in dependency actions because they (1) fall within the zone of interests sought to be protected by state dependency statutes and (2) due process requires alleged

biological parents receive notice of and an opportunity to participate in dependency proceedings.

The purpose of RCW 13.34 is to protect and nurture the family unit with the child's health and safety being the paramount concern. An alleged biological parent's due process rights in dependency proceedings fall within RCW 13.34's zone of interest because, through claiming a parentage relationship, the alleged biological parent's interest in being a part of the family unit directly aligns with the legislature's expressed interest in protecting and supporting the same unit.

Additionally, an alleged biological parent may suffer injury in fact if they are excluded from a dependency proceeding. Excluding an alleged biological parent runs the risk of unlawfully interfering with the constitutional due process right to fundamental fairness of alleged biological parents who are later determined to be a biological parent. Alleged biological parents are owed "fundamental fairness" until their claim of parentage to the child is determined.

In re Dependency of C.J.J.I., C.V.I., and R.A.R. Jr.

2025 WL 922166 (Wash. 2025) (Supreme Court)
3/27/2025
Link

QUESTION	ANSWER
Does RAP 2.3(b)(3), a criterion for when the Court of Appeals may grant discretionary review of an interlocutory order, apply to both procedural and substantive irregularities?	Yes.

FACTS

ICWA case. Superior Court issued a dispositional order that required DCYF to provide a certain number of hours of visitation. DCYF failed to provide numerous visits during a particular period, and Mother requested the Court return the children due to DCYF's failure to make active efforts to provide consistent visitation. The Court found that DCYF did make active efforts to provide consistent visitation but did not discuss the applicable evidentiary standard. Mother appealed, and the Court of Appeals denied discretionary review, finding that RAP 2.3(b)(3) applies only to procedural irregularities, not substantive irregularities.

ANALYSIS

Both RAP 2.3(b)(3) and RAP 13.5(b)(3) require a party to show that a court has "so far departed from the acceptable and usual course of juridical proceedings" so as to call for review by another court. Neither standard limits review to "procedural" irregularities. Instead, "the rules begin with the presumption that courts in judicial proceedings follow a generally recognized and approved practice, and, to satisfy RAP 2.3(b)(3) or 13.5(b)(3), a

party must show not simply that the lower court deviated from that practice, but that it did so to such a great degree that review or revision is necessary."

Mother has demonstrated that the Court of Appeals departed "so far" from the accepted and usual course of judicial proceedings as to warrant revision on discretionary review because RAP 2.3(b)(3) is not limited to only procedural errors. The case is returned to the Court of Appeals to reconsider Mother's motion for discretionary review.

Legislative Updates

SB 6006: Supporting Victims of Human Trafficking

Signed: 3/26/2024
Effective: 7/1/2025
Link

- Amends definition of "dependent child" under RCW 13.34.030(6)(e) to include child who "is a victim of 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., when the parent is involved in the trafficking, facilitating the trafficking, or should have known that the child is being trafficked."
- Amends definition of "abuse or 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."
- Adds new section to RCW 26.44 requiring the department to use a validated assessment screening tool whenever it receives a report of child abuse or neglect alleging commercial sexual abuse and whenever there is reasonable cause to believe that a child under the jurisdiction of a juvenile justice agency has suffered commercial sexual abuse.

E2SSB 6109: High-Potency Synthetic Opioids

Signed: 3/28/2024
Effective: 6/6/2024
Link

- Amends RCW 13.34.050 ("pick-up order" statute), RCW 26.44.050(2) (law enforcement protective custody statute), RCW 26.44.056 ("hospital hold" statute), RCW 13.34.065 (shelter care statute – removal and parental participation in prevention services), and RCW 13.34.130 (disposition statute).
- Defines "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."
- Amends standard for removal to specifically include consideration of "a high-potency synthetic opioid."
- Requires courts to 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.
- Adds new section to RCW 43.216 establishing one legal liaison for each department region to work with the department and the office of the attorney general for purpose of assisting with preparation of child abuse and neglect court cases.

SHB 1177: Child Welfare Housing Assistance Program

Signed: 4/25/2025
Effective: 7/27/2025
Link

- Amends RCW 74.13.802(c) to authorize the department to continue to provide housing assistance through child welfare housing assistance program after department is no longer providing child welfare or child protective services to the family.
- Amends factors the department is required to include in an annual report to the legislature on data and outcomes for the child welfare housing assistance program, to also include the number of unhoused parents on the waiting list for vouchers and the average time spent on the waiting list; the percentage of funding spent on housing assistance for families to prevent out-of-home placement, support reunification, provide for program administration, or other purposes; and percentage of funding spent on program administration, rental assistance to families, and supportive services necessary to receive federal housing voucher support.
- Adds new section to RCW 74.13.802 to require the department, subject to availability of amounts appropriated, to serve families eligible for the child welfare housing assistance program who are placed on a waiting list of any kind in an attempt to serve all families eligible for the child welfare housing assistance program and eliminate any waiting lists.

SSB 5149: Expanding the Early Childhood Court Program

Signed: 4/22/2025
Effective: 7/27/2025
Link

- Finds that the early childhood court program has federal funding through September 2027 and is not currently operating at capacity.
- Amends RCW 2.30.100(1)(a) to change the age of children served by early childhood courts from children under three to children under six.

SB 5761: Schedule for Court Appointment of Attorneys for Children & Youth

2025 - Pending
Link

- Amends RCW 13.34.212(3)(c) to change the phase-in period for statewide court appointment for attorneys for children from a seven-year period to an eleven-year period.
- Amends RCW 13.34.212(3)(c)(ii)(F) to require court appointment for attorneys for children in thirty counties from January 1, 2026, to January 1, 2031.
- Amends RCW 13.34.212(3)(c)(iii) to require full statewide implementation of court appointment of attorneys for children from January 1, 2028, to January 1, 2032.