

HJR 45: CHILD REMOVAL/REUNIFICATION PARENTS REPRESENTATION PROGRAM

BACKGROUND

The Children, Families, Health, and Human Services Interim Committee heard in May about a Washington state effort to improve the legal assistance that parents receive when facing allegations of child abuse or neglect. This briefing paper provides additional information about the genesis of the Parents Representation Program and how it compares to the way in which Montana provides legal representation to parents involved in the child welfare system.

EVOLUTION OF THE WASHINGTON PROGRAM

Washington's Parents Representation Program evolved over nearly two decades, beginning in 2000 as a two-county pilot project and becoming a statewide program in 2018.

REVIEWING DISPARITIES

The 1999 Legislature directed the Washington Office of Public Defense (OPD) to review the handling of child abuse and neglect cases across the state. At the time, the Attorney General's Office initiated the cases and represented the state's interests, while individual counties hired public defenders to represent indigent parents involved in the cases.

The review found that the hourly attorney payment rate set by counties generally fell below the market rate and varied widely among counties. As a result, some counties had difficulty hiring attorneys for the cases. That in turn led to high caseloads and frequent continuances of cases in many instances.

The review also found that the amount spent on parent representation in 1998 was about half the amount appropriated to the Attorney General's Office for handling abuse and neglect cases.

STARTING SMALL

Based on the findings of the review, the OPD asked the 2000 Legislature for \$500,000 to create a parent representation pilot project in two counties. The Legislature appropriated the money with the following requirements for the pilot project:

- a maximum of 90 dependency and termination cases per attorney;
- practice standards for participating attorneys;
- the use of investigative and expert services when appropriate; and
- effective indigency screening of all parents, guardians, and legal custodians.

Based on early results and the fact that many abuse and neglect cases were not resolved during the pilot project's first year, the 2001 Legislature continued the pilot project with an additional \$600,000 appropriation. The Legislature also required an independent evaluation of the program's benefits and costs. The evaluation was to include criteria for a statewide program for improving parent representation in abuse and neglect cases.

In 2003, the Legislature continued funding the program and reduced the attorney caseload to 80 cases per full-time attorney. Caseloads are still capped at that level.

GROWING THE PROGRAM

The Washington Legislature continued to increase funding for the program over time until it became a statewide program in 2018. The program includes:

- attorneys who are under contract with OPD to represent parents, following practice standards set for the program;
- social workers who are under contract with OPD to provide case support for parents, following the practice standards established by OPD;
- funding to provide training for the contract attorneys and to hire expert services, such as psychological evaluations and medical forensic review; and
- OPD monitoring of the work of both attorneys and social workers to make sure they comply with training requirements and practice standards.

Parents also have access to peer support services from parents who have had experience in the child welfare system. Those services are provided outside of the Parents Representation Program.

Washington statutes provide that the OPD director shall administer, among other things, a program to represent indigent parents in dependency and termination cases. However, the specifics of the Parents Representation Program are not outlined in statute. Instead, the program operates under caseload standards set by the Washington Supreme Court and practice standards adopted by OPD, the American Bar Association, and the Family Justice Initiative.

The program now has a budget of about \$26 million a biennium. It's funded primarily by general fund dollars but also some federal Title IV-E funding that is available to support high quality legal representation for parents and children who are involved in the child welfare system.

MONTANA AND WASHINGTON: A COMPARISON

The table below shows how Washington's program differs from the public defender assistance provided to parents in Montana.

Item	Montana	Washington
Cap on Caseloads	Yes*	Yes
Social Worker Services on Contract with OPD	No	Yes
Attorney Training Requirements	No	Yes
Practice Standards for Attorneys	Yes	Yes
OPD Monitoring of Contract Attorney Practices	No	Yes
OPD Monitoring of Contract Social Workers	No	Yes
Peer Support for Parents	No	Yes**

* = Limit is based on workload management standards and is not a numerical limit like Washington's limit.

** = Paid for by an outside entity.

Sources:

- "Costs of Defense and Children's Representation in Dependency and Termination Cases." *Washington State Office of Public Defense*. December 1999.
- "Dependency and Termination Parents' Representation Pilot: Evaluation." *Washington State Office of Public Defense*. February 2002.
- Washington State Legislature: Senate Bill 5744, 1999; House Bill 2487, 2000; Senate Bill 6153, 2001.
- 2.70.02, Revised Code of Washington
- E-mail correspondence with Brett Ballew, Lead Attorney, Parents Representation Program, Washington State Office of Public Defense, June 2022.
- E-mail correspondence with Brett Schandelson, Development and Operations Bureau Chief, Montana Office of State Public Defender, June 2022.