

2021 WACAP From the Bench

**Family Court Commissioner
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Clallam County**

Olympic Peninsula



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Court Reports

- Concise
- Emphasize important points
- Child's best interest
- Recommendations for changes to case plan and court orders
- Make sure reports filed in a timely manner

Hearings

BE PRESENT AT THE HEARINGS!

- Placement
- Visitation – parents and siblings
- Service plan
- Children's needs (medical, educational, misc...)
- Parents compliance & progress
- Permanent plan
- Motions

Placement

- If in-home, how is it going?
- If out-of-home, what needs to happen before in-home?
- Relative placements
- Placement changes
- What does the child need for stability?
- Siblings

Visitation

“If the court previously ordered that visitation between a parent and child must be supervised or monitored, **there shall be a presumption that such supervision or monitoring will no longer be necessary after the review hearing.** To overcome this presumption, a party must provide a report to the court including evidence establishing that removing visit supervision or monitoring would create a risk to the child's safety, and the court shall make a determination as to whether visit supervision or monitoring must continue.”

RCW 13.34.138(2)(c)(xii)

Visitation

- Should be as frequent as possible
- In the most family-like setting
- Why visits are not going well
- What could make the visits better?
- Attending visits
- Supervision level

“Early, consistent, and frequent visitation is crucial for maintaining parent-child relationships...” RCW 13.34.136

Service Plan

- Address parental deficits
- Culturally appropriate
- Tailored to needs of parents
- Barriers identified and addressed
- Active efforts on ICWA cases
- Parental compliance and progress

Children's Needs

- Mental health
- Medical/Dental
- Educational
- Stated interests and best interests
- Attorney (12 y.o.; changing to 8 y.o.; and for all termination petitions)

Educational Liaison

Presumed to be the youth's parents. If not, should be relative or someone close to youth. May be child's advocate or placement. Not the DCYF social worker.

For youth grades 6 to 12 who:

- (a) All parental rights have been terminated;
- (b) Parents are unavailable because of incarceration or other limitations;
- (c) The court has restricted contact between the youth and parents; or
- (d) The youth is placed in a behavioral rehabilitative setting and the court has limited the educational rights of parents.

RCW 13.34.045

Educational Liaison

- (a) To attend educational meetings and dependency hearings;
- (b) To meet with local school personnel at regular intervals regarding the youth's educational performance and academic needs;
- (c) To seek to understand the youth's academic strengths, areas of concern, and future life goals;
- (d) To advocate for necessary educational services;
- (e) To join in decision-making processes regarding appropriate school placements, school coursework, personal future, and educational planning;
- (f) To explore opportunities and barriers for youth to participate in extracurricular activities;
- (g) To involve youth in educational decisions as developmentally appropriate;
- (h) To keep all information regarding the youth confidential except as required pursuant to lawful order of a court; and
- (i) To provide a written or verbal report to the court during each dependency hearing. The report must include information about the youth's educational progress, experience in school, and the educational liaison's and youth's recommendations regarding needed services in school or the community.

Incarcerated Parents

- Participation in case planning
- Visitation
- Services
- Permanency

Permanent Plans

- Return home
- Guardianship – 13.36 or 11.130
- Adoption
- Independent Living
- Long Term Foster Care

“Permanency planning goals should be achieved at the earliest possible date, preferably before the child has been in out-of-home care for fifteen months.” RCW 13.34.145(c)

Court Orders

- Recommendations will not always be ordered
- Review the court's orders
- The court will get it wrong – seek reconsideration/review

Termination

- Child is dependent and a dispositional plan is ordered
- Child has been out-of-home for at least 6 months
- Services ordered and any other necessary services that are reasonably available have been “expressly and understandably offered”
- Little likelihood of return home in the near future
- Parental rights diminish “the child's prospects for early integration into a stable and permanent home”
- Parents are unfit to parent
- Termination is in the child’s best interest

Guardianship

- Child is dependent and a dispositional plan is ordered
- Child has been out-of-home for at least 6 months
- Services ordered and any other necessary services that are reasonably available have been “expressly and understandably offered”
- Little likelihood of return home in the near future
- Lower legal burden
- RCW 13.36 versus RCW 11.130

Alternative and Family Treatment Courts

- ICWA Courts
- Early Childhood Courts
- Family Treatment Courts

Less adversarial with more resources available to address challenges and focus on solutions

Coming Soon

E2SHB 1227 (Sect 1-10 – July 1, 2023) Keeping Families Together

- Addresses disproportionate outcomes in child welfare law
- Removing children authorized to prevent imminent physical harm; petition must state “clear and specific statement as to harm that will occur...”
- Compare to current law: “child’s health, safety, and welfare will be seriously endangered if not taken into custody...”
13.34.050
- Relative placement required unless one is not available to ensure basic safety of the child
- Incorporates the reason to know standard for ICWA families