
Legislature acts to ensure fewer families will face forced separations

Passage of legislation helps to address a foster care system that harms children and families, especially Black and Indigenous families

For Immediate Release
April 30, 2021

Contact: Leslie Brown
Leslie.Brown@kingcounty.gov, 206-550-0772

Judges in Washington state must weigh the harm of removing children from their parents before placing them in foster care, thanks to far-reaching legislation that recognizes – for the first time – the inherent trauma of family separation to children and parents.

The legislation, passed in the final days of the session last week, also requires the court to find a causal connection between the parent's conduct and the risk of harm to a child before ordering an emergency removal; to consider whether services to the parents would address the issues before ordering removal; and to prioritize placement of a child with relatives over strangers if a child can't remain safely with their parents.

The legislation addresses the initial stages of a dependency case, when children are removed but before allegations against parents have been proven. It requires that courts make a finding of "imminent physical harm" – prior to separating a family – language that narrows the focus to the immediate situation.

Advocates hailed passage of [House Bill 1227](#), called the Keeping Families Together Act. It builds on extensive research showing that removing children from their family causes children profound harm and that children often have better outcomes over time if allowed to remain with their families. It also works to counter the extreme racism of the system: Black and Indigenous children are about twice as likely to be removed from their families as white children, according to a [2019 state analysis](#).

"This legislation is long overdue," said Shrounda Selivanoff, public policy director for the [Children's Home Society of Washington](#). "We know that it's harmful to remove children from their families, and yet that's what the system does: It tears families apart. This legislation will force us to begin thinking differently. It will force judges and state officials to look for ways to support parents, not take away their children."

"The state will no longer be able to remove a child due only to a parent's poverty, disability, or substance use," said Tara Urs, special counsel for civil policy and practice at the [King County Department of Public Defense](#). "This bill puts in place a clearer system of analysis – a kind of decision tree – that means there will be less discretion in the system and thus less room for implicit biases to play a role in the decision to separate families."

Carla Arnold, executive director of [YouthNet](#), which licenses and supports foster families and which is a member of the [Washington Association for Children and Families](#), said her organization joined the coalition in support of the legislation because of the profound racial disproportionality in the foster care system that she sees and that research confirms.

“Most foster parents care about the children in their homes, but they can’t replace the sense of belonging and family love that parents provide,” she said. “Parents love their children. They want to do what’s best for them, even when they’re struggling in their personal lives. This legislation means more children will be able to stay with their families or their relatives, the people who love them most.”

Laurie Lippold, director of public policy at [Partners for Our Children](#), a research and policy center, said she was grateful for the leadership of lawmakers – including Rep. Lillian Ortiz-Self, lead sponsor of the bill – who recognized the need for change and pushed for the legislation’s passage.

“Rep. Ortiz-Self and other lawmakers were willing to take a hard look at a system that in many respects has been failing our children for far too long and to tackle head-on some of the intransigent problems we’ve long known existed,” she said. “Their leadership made all the difference. We’re grateful they were willing to push for these much-needed reforms.”

The legislation stems from the work of advocates who came together under the umbrella name, Keeping Families Together – a coalition of advocates, lawyers, foster parents, and foster care agencies who have long observed how this system harms children in the name of protecting them. The Black Lives Matter protests last summer added to their sense of urgency and purpose; members of the coalition have also tried for years to reform a system long known to be racially disproportionate.

HB 1227 was one of two bills they worked to advance to address the harms of the foster care system. [HB 1194](#), which also passed last week, provides additional critical changes, addressing the way visitation occurs after a child has been removed from their family. The legislation requires a visit between the child and parent within 72 hours of removal and requires the state, 30 days into the case, to consider whether supervision is required during those visits.

According to Urs, HB 1194 reframes the concept of visitation. “Instead of visitation, advocates and the Department of Children, Youth and Families want to promote the idea of family time – quality time where parents and children can be together in a joyful or natural way, rather than sitting in a sterile environment under the watchful eye of a supervisor holding a clipboard,” she said. Maintaining such connections, she added, is critical to ensuring reunification down the road.

Youth advocates added a critical perspective as both bills took shape. S. Annie Chung, an attorney at [Legal Counsel for Youth and Children](#), testified in support of HB 1194, noting that children need reassurance that their families are safe and clarity that they will see their parents and siblings again.

Advocates said the two bills, taken together, are first steps – as well as significant steps – in working to change a troubled system that harms children and families.

“What’s noteworthy to me is that these bills mean we will now begin having conversation about what it takes to help families stay together,” said Selivanoff. “What services do they need? How can we support them? These conversations are critical, and up until now, they’ve rarely taken place. I believe that’s about to change.”

Both bills are now before the governor.