



# Children in the Courtroom

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Children's Representation Program  
May 18, 2026



# Presentation Goals

Ensure attendees understand the value and importance of children participating in their court hearings.

Provide attendees with knowledge and resources to create trauma-informed, child centered courtroom experiences.



# Presentation map

- **The Children's Representation Program and overview of a child's right to counsel**
- **Research and best practices related to children participating court proceedings**
- **Legal considerations surrounding a child's participation in court proceedings**
- **Tools for creating child-centered courtrooms**
- **Additional resources**



# **The Children's Representation Program**

# The Children's Representation Program

## **Mission**

Underwrite and oversee the delivery of effective standards-based, trauma-informed, and culturally-competent attorney representation for children subject to dependency and termination proceedings in Washington State

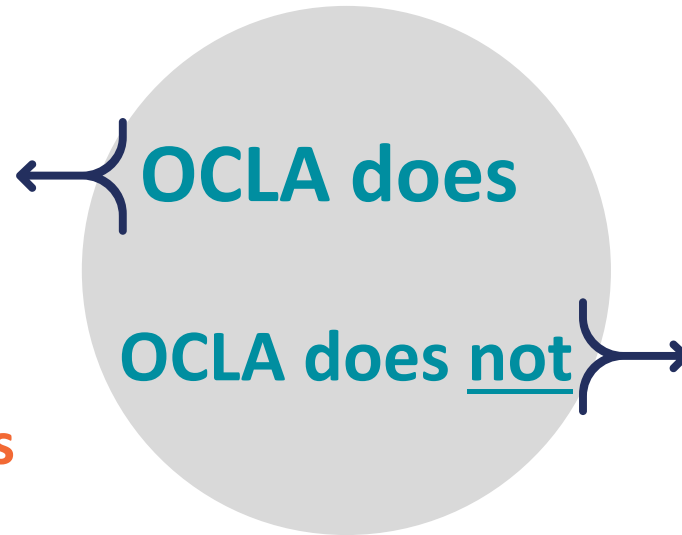
## **Charge**

Statutorily directed to contract with attorneys to provide legal representation to children and youth appointed counsel pursuant to RCW 13.34.212(1) and (3). *RCW 2.53.045*

# OCLA'S ROLE IN ADMINISTERING RCW 13.34.212(1)&(3)

- Recruit
- Train
- Oversee
- Compensate
- Maintain

a statewide panel of attorneys  
to accept case assignments  
under RCW 13.34.212(1)&(3)



- ✗ Provide direct representation
- ✗ Manage the actual appointment of counsel

## RCW 13.34.212

*Court-Appointed Attorney  
for a Child in a Dependency  
Proceeding*

- (1) Mandatory appointment for children who remain “legally free” six months post-termination of parental rights
- (2) Discretionary appointment of counsel at county expense pursuant to *Mathews v. Eldridge* analysis
- (3) Mandatory appointment for children 8+ in dependencies and for all children, regardless of age, upon filing of termination petition in select counties



## Expansion Counties

Adams	Mason
Benton	Pacific
Cowlitz	Pend Oreille
Franklin	Pierce
Ferry	Skamania
Grant	Stevens
Grays Harbor	Thurston
Kittitas	Wahkiakum
Klickitat	Walla Walla
Lewis	Yakima



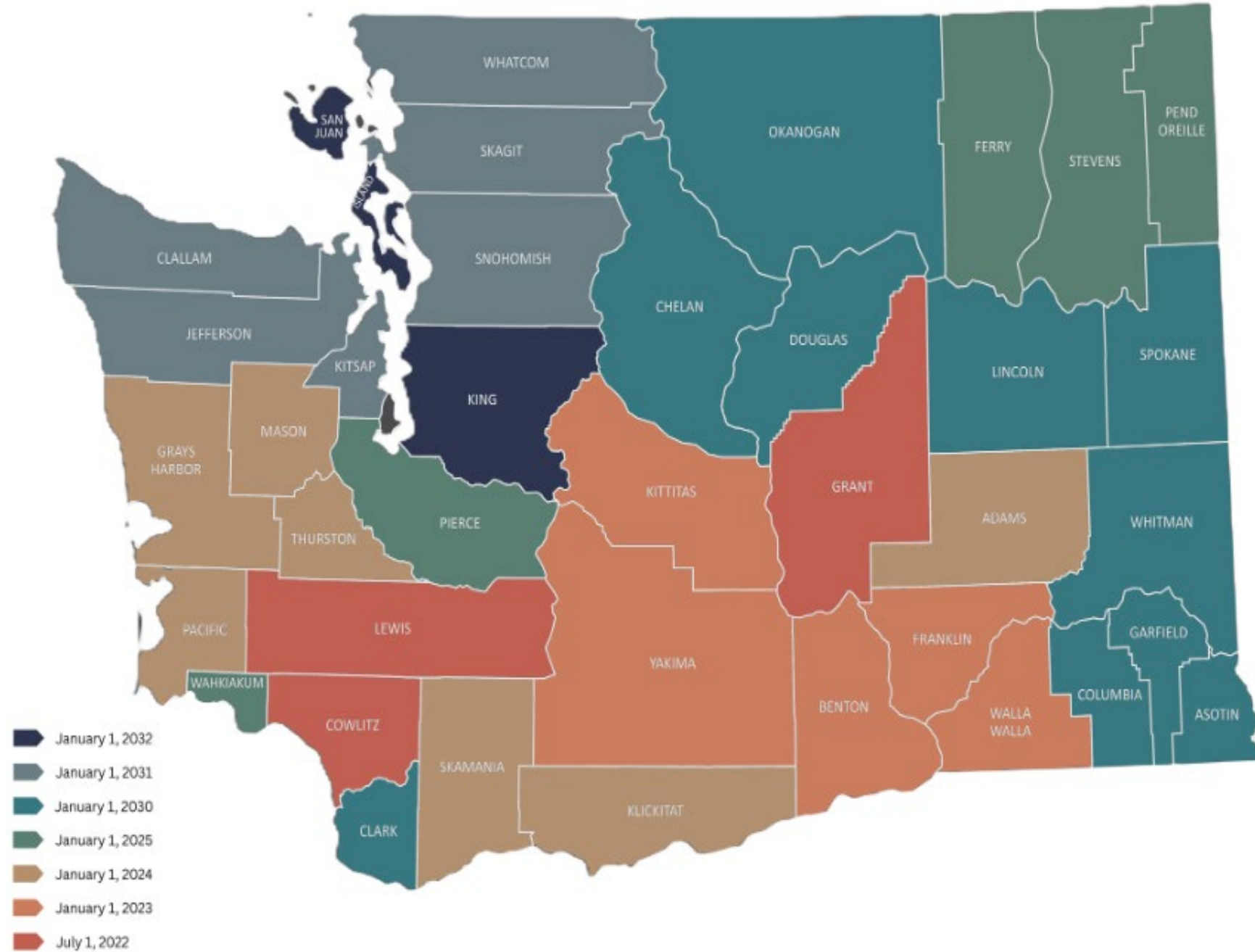
## Legally Free Counties

Asotin	Kitsap
Chelan	Lincoln
Clallam	Okanogan
Clark	San Juan
Columbia	Skagit
Douglas	Snohomish
Garfield	Spokane
Island	Whatcom
Jefferson	Whitman
King	



# Implementation Schedule RCW 13.34.212(3)

*Expanded Right to Counsel*





# DEPENDENT CHILDREN'S LEGAL REPRESENTATION STUDY

**Duration:** 2017-2019

**Scope:** Legal counsel for all children in dependencies, regardless of age, at all stages of proceedings

**Subject Counties:** Grant & Lewis

**Control Counties:** Douglas & Whatcom

**Administrator:** Office of Civil Legal Aid

**Researchers:** Washington State Center for Court Research, University of Washington

# 2017-2019 Study Results



**45%** higher rate of reunification

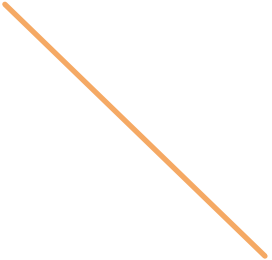
**30%** decrease in placement disruptions



**65%** reduction in non-normative school changes



**B e s t**  
**P r a c t i c e**

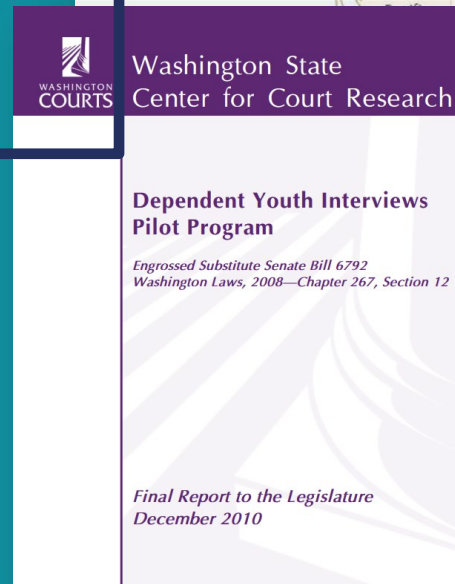


“Social science research in family and juvenile law demonstrates that children have better long-term outcomes when they feel they have a voice in court proceedings.”

Stephanie L. Tang, *Safeguarding Children’s Voices in Child Protective Proceedings*,  
102 Denv. L. Rev. 41, 56 (2024).



# 2010— Washington Dependent Youth Interviews Pilot Program Final Report

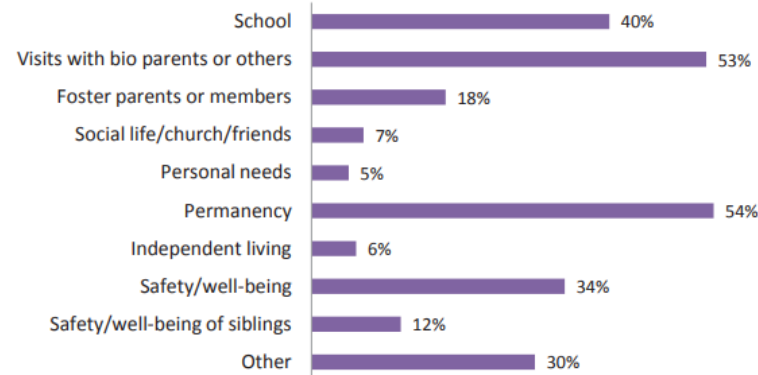


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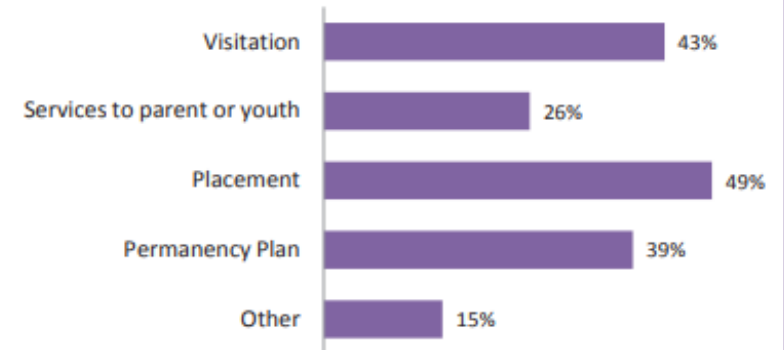
McLane, J. (2010). Dependent youth interviews pilot program. Washington State Center for Court Research.

# 2010— Washington Dependent Youth Interviews Pilot Program Final Report

**Exhibit A: Areas of concern raised by youth during interviews.**



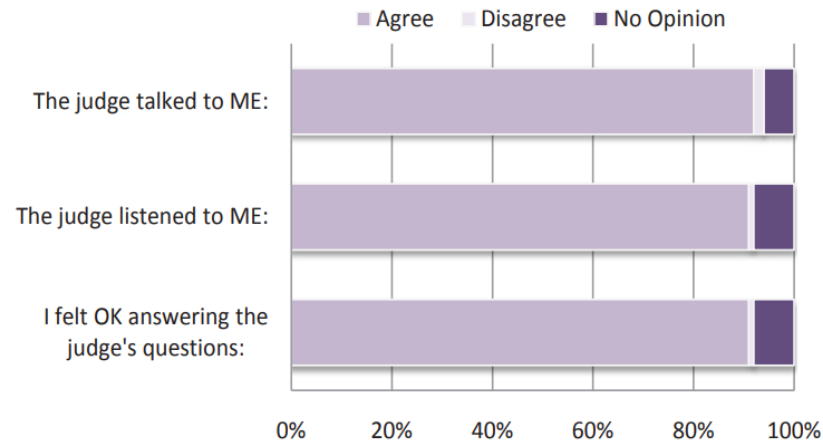
**Exhibit B: Areas in which judges noted gaining a better perspective through interviewing.**



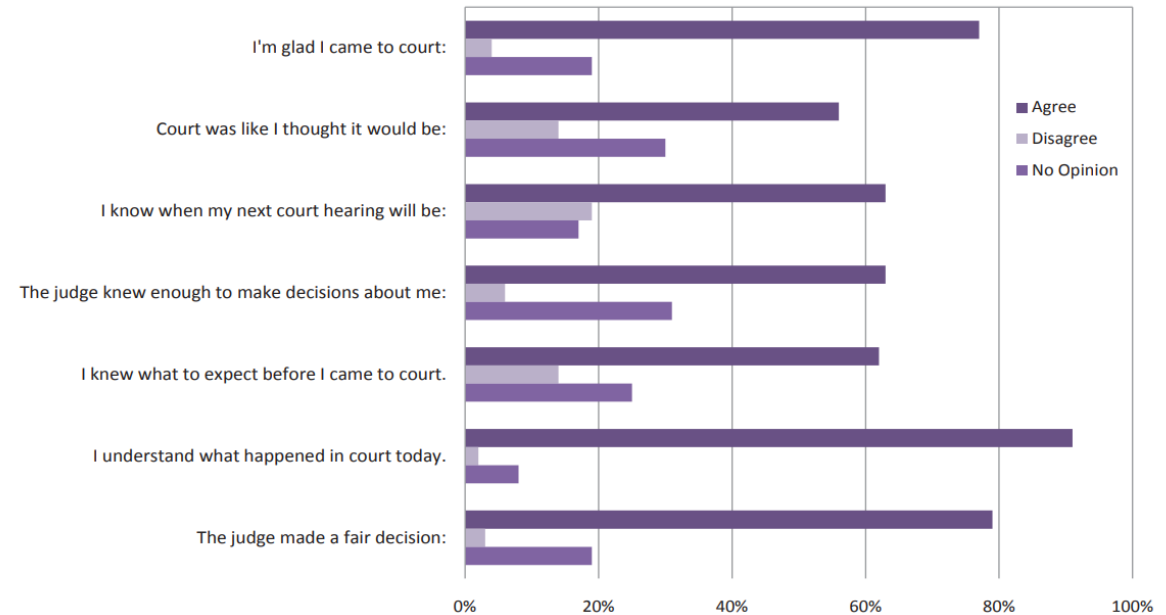
65% of interviews were reported as 'quite useful' or 'very much useful.'

# 2010— Washington Dependent Youth Interviews Pilot Program Final Report

**Exhibit C: Responses from youth who talked to the judge either in the hearing or in an interview.**



**Exhibit D: Responses from youth on their court experience.**



McLane, J. (2010). Dependent youth interviews pilot program. Washington State Center for Court Research.

**2010—  
Washington  
Dependent Youth  
Interviews Pilot  
Program Final  
Report**

“While the focus of this pilot program has been on the youth interview process, **the significance of a judge directly engaging with youth in open court cannot be overstated.** One-on-one communication between the judge and youth, as part of the hearing, sends a compelling message about the value the court places on what an adolescent has to say. While the more private interviews are also a clear indication of the court’s interest, **the practice of direct interaction with youth, in the court hearing, should be considered as a best practice for all courts.**”

WASHINGTON STATE SUPREME COURT --  
COMMISSION ON CHILDREN IN  
FOSTER CARE

On Request of

THE WASHINGTON STATE LEGISLATURE

*REPRESENTATION OF CHILDREN AND  
YOUTH IN DEPENDENCY CASES  
PRACTICE, CASELOAD, AND TRAINING  
STANDARDS*

(Rev. Sept. 2022)

“The child's trust and confidence in the decision-making process is often a function of the responsiveness of that process.”

Washington State Supreme Court Commission on Children in Foster Care. (2022, September). Representation of children and youth in dependency cases: Practice, caseload, and training standards (Rev. ed.). Washington State Courts.

WASHINGTON STATE SUPREME COURT --  
COMMISSION ON CHILDREN IN  
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PRACTICE, CASELOAD, AND TRAINING  
STANDARDS  
(Rev. Sept. 2022)*

- **The child has a right to be present at court hearings and should be encouraged to do so if appropriate.**
- The child's attorney should consult with the child regarding the child's presence.
- **After consultation, the attorney shall follow the child's decision regarding whether they will attend the court hearing.**
- If the child wishes to attend the hearing, the attorney should work with the Department and or placement to ensure attendance at hearing.
- Attorneys should advocate for hearings to occur during times that have the least impact on child's schedule.

Practice Standards § 7.3 – Child at Hearing

Washington State Supreme Court  
Commission on Children in Foster  
Care. (2022, September).  
Representation of children and  
youth in dependency cases: Practice,  
caseload, and training standards  
(Rev. ed.). Washington State Courts.



# 613

## **Policy Resolution 613**

Urging adoption of laws establishing a presumption of child presence in all dependency proceedings.

# MA

## **Model Act**

Each child who is the subject of an abuse and neglect proceeding has the right to attend and fully participate in all hearings related to his or her case.

# SP

## **Standards of Practice**

In most circumstances, the child should be present at significant court hearings, regardless of whether the child will testify.

# 613

## Policy Resolution 613

Urging adoption of laws establishing a presumption of child presence in all dependency proceedings.

## ABA Policy Resolution 613

**Urges** federal, state, local, territorial, and tribal legislatures to enact, and courts to enforce, **laws establishing a presumption of child presence in all dependency proceedings** to ensure that:

1. legal decisions and practices **respect and value a child's unique identity, including their racial, cultural, ethnic, linguistic, sexual orientation, and gender identities;**
2. **the child can express their individual needs and interests and meaningfully engage in a case;** and
3. **the child, in consultation with the child's attorney, has the sole right to choose not to be present and reasons such as age, disability, scheduling conflicts, lack of transportation, or perceived trauma which is not documented, are not used to rebut the presumption.**

**Urges** courts to support a **presumption of child presence** in dependency proceedings through changes **in court rules and policies;**

**Urges children's attorneys** to safeguard and **advocate for the presumption of presence**, to confirm prior to a hearing that the child's transportation to court has been secured, and to thoroughly prepare the child to participate in their court proceedings; and

**Urges** federal, state, local, territorial, and tribal governments to **work with individuals who have experienced dependency cases** as children to build an **evidence base of trauma-responsive best practices**, and to **provide ongoing training for judges and lawyers**, for engaging children in court and recognizing the fundamental dignity and humanity of each child in dependency proceedings.



# 613

## **Policy Resolution 613**

Urging adoption of laws establishing a presumption of child presence in all dependency proceedings.

“When children are involved in a dependency case ... the experience affects their lives profoundly. Decisions often permanently change the composition of family and personal relationships under law. As a result, dependency court ... hearings require an understanding of who a child is as a unique individual, including each child’s racial, cultural, ethnic, linguistic, sexual orientation, and gender identities, as well as specific needs that relate to those identities. Assessing unique needs and identity is best understood by engaging the child as a part of legal hearings in their own dependency cases, regardless of age.”

# 613

## Policy Resolution 613

Urging adoption of laws establishing a presumption of child presence in all dependency proceedings.

### Scope of Resolution 613

- **No Age:** There is no age at which it is inappropriate for children to attend court hearings.
- **Participation.** More than testimony. Participation includes notice, understanding of proceeding, and conscious choice by the child to participate verbally or non-verbally.

### Commonly Referenced Barriers to Participation

- **Logistical:** transportation, school conflicts, accommodations, etc.
- **Discretionary:** perception of best-interest, perceived trauma, etc.

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“in any permanency hearing held with respect to the child, including any hearing regarding the transition of the child from foster care to independent living, the court or administrative body conducting the hearing consults, in an age-appropriate manner, with the child regarding the proposed permanency or transition plan for the child.” 42 U.S.C. § 675(5)(C).”

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Urging adoption of laws establishing a presumption of child presence in all dependency proceedings.

### Improved Judicial Decision-Making

- **Better Information:** Participation provides the court with better information upon which to base decisions. Stakeholders have noted that the court gains a more accurate understanding of the child's needs when they hear from the individual directly rather than relying solely on case files or the testimony of others.
- **Respecting Identity and Unique Needs:** Participation is the best way for a judge to understand a child's unique racial, cultural, ethnic, linguistic, sexual orientation, and gender identity.
- **Observing Interactions:** For very young children or infants, presence allows the court to observe the child's interactions with others, which is vital for assessing relationships and well-being.
- **Humanizing the Process:** Presence in court humanizes the legal process, which helps judges make more informed decisions about a child's future.

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## Policy Resolution 613

Urging adoption of laws establishing a presumption of child presence in all dependency proceedings.

### Enhanced Youth Experience and Trust

- **Reduced Anxiety:** Research indicates that a primary source of anxiety for children in the welfare system is not knowing the outcome of their case; attending hearings can alleviate this insecurity.
- **Building Trust:** Meaningful participation enhances trust in the overall legal and child welfare systems.
- **Procedural Justice:** When children participate, they are more likely to feel that the adults in the room listened to them. This leads to a better understanding and acceptance of court decisions.
- **High Satisfaction:** Evaluations show that the vast majority of children who attend court are glad they participated and would choose to attend again.



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Urging adoption of laws establishing a presumption of child presence in all dependency proceedings.

“But what about difficult things, missing school, or lack of understanding?”

American Bar Association, Commission on Youth at Risk. (2022). Report to the House of Delegates: Resolution 613 Report. American Bar Association.

# 613

## Policy Resolution 613

Urging adoption of laws establishing a presumption of child presence in all dependency proceedings.

### Best Practices:

#### Judicial Engagement and Courtroom Environment

- **Trauma-Responsive Interaction:** Judges and staff should be trained in trauma-responsive practices. This includes using the youth's preferred name and pronouns, asking open-ended and welcoming questions (e.g., "What is your favorite subject in school?"), and being patient with responses.
- **Welcoming Physical Space:** Courts can create a more inviting environment by providing waiting rooms with toys and snacks, "calming rooms," or even support dogs to reduce anxiety.
- **Respecting Identity:** Engagement should explicitly respect the child's unique identity, including their racial, cultural, ethnic, linguistic, and gender identities.

# 613

## Policy Resolution 613

Urging adoption of laws establishing a presumption of child presence in all dependency proceedings.

### Best Practices:

- **Addressing Practical Barriers**
  - **Flexible Scheduling:** Courts should schedule hearings after school or during breaks to avoid educational disruption.
  - **Punctuality:** Ensuring cases are heard on time is critical, as long wait times in uncomfortable settings can discourage youth from participating in the future.
  - **Alternative Appearance Options:** While in-person attendance is preferred, remote participation (e.g., via Zoom) should be an option if it meets the child's individual needs.
  - **Tailored Settings:** Some jurisdictions use "Benchmark Conferences"—informal discussions with the judge outside of regular review hearings—to engage older youth on their future plans.
- **Follow-up and Systemic Evaluation**
  - **Post-Hearing Debrief:** After the proceeding, the attorney should meet with the youth to explain the outcome, answer questions, and arrange for any necessary emotional support.
  - **Lived Experience:** Best practices should be informed by individuals with lived experience in the dependency system. Courts should partner with these individuals to evaluate practices and identify what contributes to a positive experience.

# MA

## Model Act

Each child who is the subject of an abuse and neglect proceeding has the right to attend and fully participate in all hearings related to his or her case.

## Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings, Section 9: Participation in Proceedings

### The Child's Right to Attend and Participate

- Attendance and participation.
- Notification.
- Court Oversight of Absence—investigate the reasons for their non-appearance.
- Required Continuance—where a child expresses a desire to attend.
- Waiver of Presence—informed consent to waive.
- Rights and Entitlements of the Child's Lawyer.
- Courtroom Accommodations.

**Humanizing the Case:** Commentary—the presence of the child serves to remind the judge and all parties that the proceedings are centered on the child's life and future.

# SP

## Standards of Practice

In most circumstances, the child should be present at significant court hearings, regardless of whether the child will testify.

## Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases

### Section D: Hearings Commentary

“A child has the right to meaningful participation in the case, which generally includes the child's presence at significant court hearings. Further, the child's presence underscores for the judge that the child is a real party in interest in the case...”

“A decision to exclude the child from the hearing should be made based on a particularized determination that the child does not want to attend, is too young to sit through the hearing, would be severely traumatized by such attendance, or for other good reason would be better served by nonattendance.”



**PS**

**Children in the Courtroom  
Policy Statement**

Children of all ages should be present in court unless a judge decides it is not safe or appropriate.

**ERG**

**Enhanced Resources  
Guidelines**

Recommended for use by judges and court professionals as a tool to enhance court practice in child abuse and neglect cases



**PS**

**Children in the Courtroom  
Policy Statement**

Children of all ages should be present in court  
unless a judge decides it is not safe or  
appropriate.

“It is the policy of the National Council of Juvenile and Family Court Judges that children of all ages should be present in court and attend each hearing, mediation, pretrial conference, and settlement conference unless the judge decides it is not safe or appropriate.”

# PS

## **Children in the Courtroom Policy Statement**

Children of all ages should be present in court  
unless a judge decides it is not safe or  
appropriate.

- NCJFCJ policy was based in part on:
  - National Child Welfare Organizational Support:
    - ABA – Model Act (2011) & Standards of Practice (1996).
    - NACC – Standards of Practice (1999).
    - PEW Commission - Fostering the Future: Safety, Permanency and Well-Being for Children in Foster Care (2004).
    - UNLV Conference on Representing Children and Families (2006)

# ERG

## Enhanced Resources Guidelines

Recommended for use by judges and court professionals as a tool to enhance court practice in child abuse and neglect cases

### ENGAGING CHILDREN

The meaningful participation of children and youth in court proceedings respects them as active participants in their own lives. While some may argue that attending court hearings is traumatic to children, it is important to remember that they have already lived through the trauma that brought them into care, and engaging them in planning their future and protecting their safety is empowering and critically important. Meaningful participation means taking into account children's wishes and feelings, including their perspective in all matters affecting them, cultivates an environment that welcomes and nurtures a child or youth's evolving developmental capacity, and is responsive to their needs, including any trauma history. Participation is a process, and children and youth will only be able to meaningfully participate in an environment that actively supports and encourages their ongoing involvement in both big and small decisions.

National Council of Juvenile and Family Court Judges. (2016). *Enhanced resource guidelines: Improving court practice in child abuse and neglect cases*. NCJFCJ.

Section II. L: Engaging Families and Children

# ERG

## Enhanced Resources Guidelines

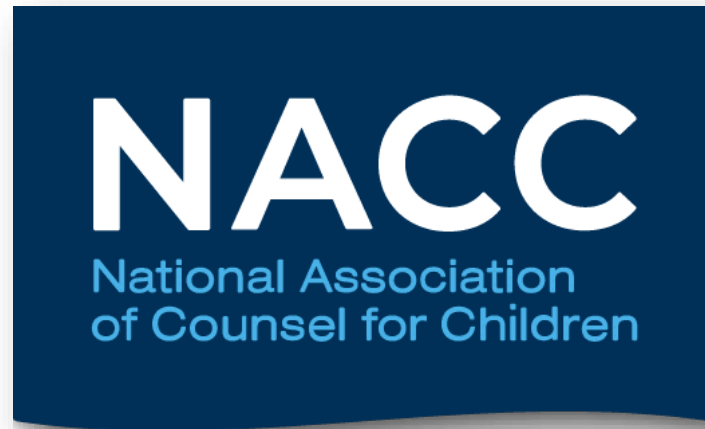
Recommended for use by judges and court professionals as a tool to enhance court practice in child abuse and neglect cases

To support the participation of children and youth in dependency court, the following is recommended:

- Judges should seek and participate in training on how best to engage children in court.
- Courts should develop policies and protocols to ensure that children have the opportunity to attend all court events.
- Children should be parties to their cases and be appointed competent representation.
- Children should receive meaningful notice of and preparation for hearings.
- When children are not present in court, the judge should ask why and make findings as to why the child is not present. If the judge does not find good cause for the child's absence, the case should be continued to an expedited time-certain to secure the appearance of the child. The court should work with the agency and caregivers to ensure the child has transportation to court.
- Judges should encourage the use of family group decision-making conferences, pre-hearing and settlement conferences, and other practices which include the participation of children and youth in their jurisdiction. Judges should regularly inquire if children and youth are, in fact, participating in such practices.

National Council of Juvenile and Family Court Judges. (2016). *Enhanced resource guidelines: Improving court practice in child abuse and neglect cases*. NCJFCJ.

Section II. L: Engaging Families and Children



# RLR

## **Recommendations for Legal Representation**

Ensure opportunity for full , meaningful  
participation

# RLR

## Recommendations for Legal Representation

Ensure opportunity for full , meaningful participation

Children and youth should receive notice and opportunity to attend each hearing and case event.

- Preparation & Follow-Up
- Scheduling & Logistics
- Presence & Waiver
- Courtroom Appearance
- Accessibility

*"My attorney would ask me where I'd like to sit in court. In a system where you have very little power or choices, I should at least be able to choose where I sit."*

**NACC ADVISORY COUNCIL MEMBER**



# Legal Considerations

PROTECTING THE CHILD'S RIGHT TO DUE PROCESS

# *Braam v. State*

150 Wn.2d 689,700  
(2003)

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“ [We] recognize and adhere to the weight of authority that foster children have substantive due process rights the State is bound to respect. ”

## Dependent Children's Due Process Rights

- Children have constitutional due process rights surrounding fundamental liberty interests which are at stake in dependency proceedings.  
*See e.g. In re Dependency of M.L.W., 4 Wn.3d 53, 70 (2024); In re Dependency of M.S.R., 174 Wn.2d 1, 20 (2012).*
- Fundamental interests protected by due process include:
  - the right to be free from unreasonable risks of harm and to reasonable safety
  - the right to family integrity, including relationships with parents, siblings, and other kin
  - the right to not be returned to or placed in abusive environments *See e.g. M.S.R.*

**Dependent  
Children's  
Due  
Process  
Rights**

“Children have the right to freedom of personal choice in matters of family life—a fundamental liberty interest protected by the due process clause of the Fourteenth Amendment to the United States Constitution.”

*In re Dependency of Lee*, 200 Wn. App. 414, 451 (2017)

## Dependent Children's Due Process Rights


Attempts to infringe upon the child's due process rights require a *Mathews* analysis.

*See e.g.* In re Dependency of E.H., 191 Wn.2d 872 (2018);  
In re Dependency of M.S.R., 174 Wn.2d 1 (2012)


*Mathews* 3 Part Balancing Test:

- 1) The individual interest at stake
- 2) The risk of error posed by the current procedure
- 3) The government's interest in maintaining the current procedure

*Mathews v. Eldridge*, 424 U.S. 319 (1976)



***Mathews* Test Part I:  
Private Interests**



# *In re Dependency of M.S.R.*

174 Wn.2d 1,18  
(2012)

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“ We conclude that for the purposes of *Mathews*, the child's liberty interest in a dependency proceeding is very different from, but at least as great as, the parent's. ”

*Mathews*  
Analysis:  
Interests

**Procedural Due Process**—the right to be present and heard

**Substantive Due Process**—the right to be free from harm; the right to family integrity; the right to care

**Right to Counsel**—at all stages of a dependency proceeding, including right to consult with counsel and to receive effective assistance of counsel

## *Mathews* Analysis: Interests

### Many statutory rights, including but not limited to:

- Family integrity RCW 13.34.020
- Placement with relatives RCW 13.34.060
- Least-restrictive, most family-like placement reasonably available RCW 74.13.065
- Maximum contact with parents and siblings RCW 13.34.136
- Placement stability RCW 74.13.290
- Educational stability RCW 74.13.631
- Service of summons when aged 12+ RCW 13.34.070
- Confidentiality of court records RCW 13.50.100
- Case review RCW 13.34.138
- Second opinion on psychotropic medication prescriptions RCW 74.09.490
- Transition planning 42 USC 675(1)(D)
- Reduced barriers to normal childhood activities RCW 74.13.710

## ***Mathews*** **Analysis:** **Interests**

### **An accurate decision by the court**

“Because of the tremendous stakes,” the interest in an accurate decision by the court is “commanding.” “These private interests are enormous and weigh in favor of any reasonable error-reducing procedure.”

*In re Welfare of M.B.*, 195 Wn.2d 859 (2020)

### **The ultimate interest in their own life and future**

- “In a dependency or termination proceeding, the parent is at risk of losing the parent-child relationship, but the child is at risk of not only losing a parent but also relationships with sibling(s), grandparents, aunts, uncles, and other extended family.” *M.S.R.*
- “Children who are removed from their parents' care face a loss of physical liberty and may be forced to change homes, schools, and care facilities. Such movement may cause children significant harm.” *Lee*



***Mathews* Test Part II:  
Risk of Error**



# *In re Welfare of M.B.*

195 Wn.2d 859  
(2020)

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“ [T]he risk of error is already significant... ”  
because they ‘employ imprecise substantive standards that leave determinations unusually open to the subjective values of the judge.’

***Mathews***  
**Analysis:**  
**Risk of**  
**Error**

**Denies the court access to information only the youth can provide.**

This includes any statements the youth may make directly to the court, non-verbal cues that can only be observed if the youth is present, and responses or insight the youth may have regarding the evidence and information presented by other parties.

- The “potential for empathy and nuanced understanding is much greater in person-to-person communications.” *M.B.*
- Excluding the youth further increases the “enormous power of the State to structure the evidence presented” by removing the fully informed input of others. *M.B.*


***Mathews***  
**Analysis:**  
**Risk of**  
**Error**

**Denies the youth their right to counsel.**


WA Supreme Court has stressed the importance of participants being able to testify and to address the court in person; directly observe the proceedings; consult with their attorney; and assist counsel in responding to the arguments and evidence of other parties. *See e.g.* M.B.

**Denies children the right to combat improper biases impacting the record and the court's decision-making.**

"[T]he 'best interests of the child' standard is susceptible to class- and race-based biases... Therefore, actors in child welfare proceedings must be vigilant in preventing bias from interfering in their decision-making." *See In re welfare of K.W.* 199 Wn.2d 131, 155-156 (2022)



***Mathews* Test Part III:  
State's Interest**



# *In re Dependency of M.S.R.*

174 Wn.2d 1,18  
(2012)

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“ Under *Mathews*, we must also consider the interest of the State. The State's interest is also very strong...and we accept the proposition that the State has a compelling interest in both the welfare of the child and in ‘an accurate and just decision’ in the dependency and termination proceedings. ”


*Mathews*  
**Analysis:  
State's  
Interests**

## **The child's health, safety, and welfare**

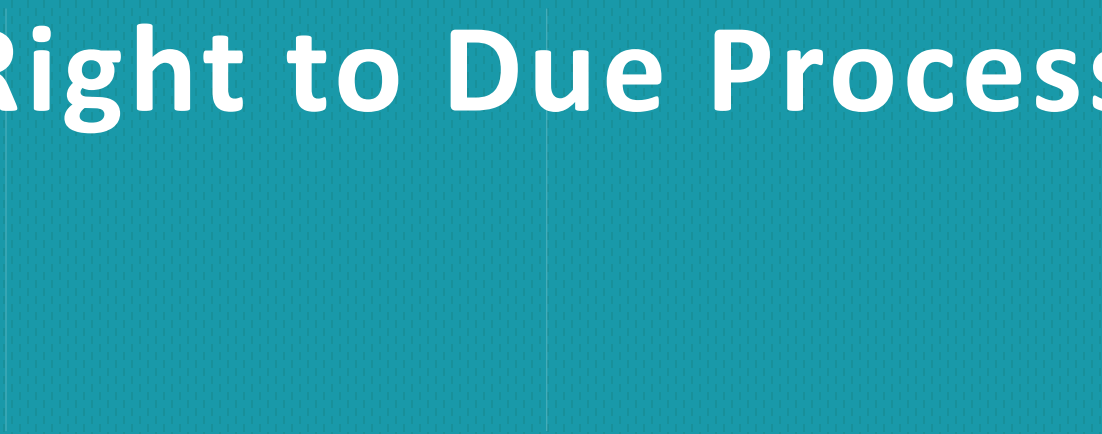
- Research shows child participation in proceedings actually leads to better long-term outcomes
- Exclusion can serve to ramp up anxiety and reinforce negative messages about the youth's person or value

## **A just and accurate decision**

- Child participation increases the information the court has when making decisions



# Protecting the Child's Right to Due Process



## Protecting Due Process Rights

**Just about any concern the court might harbor about the child's participation can be ameliorated by child-centered means:**

- Use of a counselor to assist the youth in processing what happens in court
- Requiring parties to share any sensitive topics they plan to address before court so the youth's attorney or counselor can address them with the youth prior to the hearing
- Requiring written pleadings to minimize argument in court
- Providing access to a facility dog
- Allowing use of a comfort item or other age-appropriate items
- Use of a signal the youth can give to indicate they would like a break or to step out of a hearing
- Ordering an alleged abuser to appear remotely
- Closing the hearing to the public (RCW 13.34.115; *Ishikawa*)
- Having the parties and judicial officers engage in training regarding children and youth in court
- And more!

## Protecting Due Process Rights

### **Correlation does not equal causation.**

- As a hearing gets closer, a child is being contacted more by their attorney, the social worker, their GAL/CASA. Their parents and/or caregivers might be asking them more questions. There may be some DCYF meetings. The child may be learning about a new permanency plan, changes in visitation, changes in placement, updates about a sibling, and more.
- Behavioral concerns before, during, or after hearings likely have nothing to do with being physically present at the hearing.
- Exclusion from court wouldn't alleviate any of these concerns whereas exclusion when a child wishes to be present might create a new harm!

## Protecting Due Process Rights

**A best interest analysis is legally insufficient to determine whether the child should be excluded from the proceedings.**

- *Mathews* is the test for Due Process questions.
- Best interest is not a test for protecting constitutional rights.
- Best interest determinations result in “the danger of improper biases... contaminating the decision-making process.” *In re Dependency of K.W.*, 199 Wn.2d 131, 156 (2022).

## Protecting Due Process Rights

When considering requests to exclude the child from a proceeding, understand that lay opinions are insufficient to protect a child's due process rights. The evidence of the harm and the causation showing necessary to overcome the child's rights should be satisfied by strong evidence, such as sworn expert testimony.

**If you wouldn't exclude a parent on the evidence presented, you should not exclude a child.** A child's liberty interest are "at least as great as" a parent's. The court should employ the same standard it would if it were being asked to exclude a parent from participating in proceedings.



The  
Child-Centered  
Courtroom

CONCRETE TOOLS FOR A  
TRAUMA-INFORMED COURTROOM

# *In Their Own Words*

Charissa Keebaugh

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“I feel like I have been very objectified in the court system. I was an object that had to be decided what to do with and where to go. Knowing where decisions were being made was validating. It almost felt like I was taking some of my own power back.”



# Preparation Prior to a Hearing



## Preparation For Court

### Child's Counsel Role in Preparation

#### Covering the basics:

- Who will be at the hearing?
- Where does everyone sit?
- Who sits next to them?
- What is an attorney, judge, court clerk, etc.?
- What does the rest of the courthouse look like?
- What is it like going through court security?
- Where will they wait?
- Who will wait with them?
- Who is taking them to court?
- How long will it take?
- Will they miss school?

## Preparation For Court

### Child's Counsel Role in Preparation

#### Covering the process:

- What will be discussed at the hearing?
- Who talks first?
- Will they get to talk to the judge?
- Do they have to talk to the judge if they don't want to?
- How do they know when it is their turn?
- How do they know when the hearing is over?
- What happens after the hearing is over?
- Where do they go when the hearing is over?
- Will the judge decide at the hearing or later?
- Share the plan for debriefing after court.

## Preparation For Court

### Child's Counsel Role in Preparation

#### Covering their needs:

- Do they have a toy or other item they would like to take?
- Is there a specific person they want there with them?
- Is there anything else that would make them more comfortable?
- Would they prefer to appear via video if available?
- If they don't want to talk in court, do they want to write something to give to the judge?
- How would they like to let people know if they need a break?

## Preparation For Court

### Child's Counsel Role in Preparation

#### Proactive interventions:

- Motion for an accommodation?
- Arrange for therapeutic supports before/during/after?
- Arrange for a facility dog?
- Arrange for transportation?
- Any meetings needed prior to court?

## Preparation For Court

### The Court's Role in Preparation

#### Considerations:

- Encourage parties to share information/issues early so that they can be discussed with the child prior to the hearing.
- Allow for and encourage resolution of issues by agreement outside of court.
- Inquire if the child plans to attend the hearing.
- Encourage participants to submit written filings to reduce in court discussions of difficult subjects.
- Encourage participants to take advantage of the parents and youth being at court at the same time—can a visit be scheduled for before/after court?

## Preparation For Court

### The Court's Role in Preparation

#### Considerations, continued:

- Be prepared to engage the child in an age-appropriate and trauma-informed manner. Review bench cards as a refresher.
- Are any orders needed to ensure the child's full participation?
- If the child does not have an attorney, should one be appointed?
- Can the docket be structured to prioritize cases where children are physically present?
- Is there anything that can be done to make the space itself more child-friendly?



# Engaging the Child in Court



## Engaging the Child

### Simple steps you can take immediately:

- Smile!
- Thank the child for coming to court. Let them know that you think their voice is important.
- Greet the child by name.
- Use a child's preferred name and pronouns and ensure that other participants do as well.
- Ask the child questions about school, their interests, etc.
- Keep questions simple and one topic at a time.
- Praise the child's accomplishments.
- Let the child know they don't have to speak or can speak through counsel if they wish.
- Allow the child to ask questions.
- Let the child know they can always ask to leave if they decide they need to.

## Engaging the Child

- Ensure any accommodations or other orders are adhered to.
- Consider closing the hearing to the public.
- Liberally grant recesses or continuances as necessary, especially where new information is being shared at the hearing or where the attorney otherwise needs to consult with the child.

## Engaging the Child

### Setting the expectation in your courtroom:

- Ensure other parties use the child's appropriate name/pronouns.
- If a child isn't present, ask why. Ensure they were given the option to attend.
- Ensure accommodations are made and inquire as to what other interventions might reduce barriers to participation.
- Endeavor to schedule subsequent hearings on dates/times that best allow for youth participation.

**Remember:** If the parties see that child participation is important to the court, it will become important to them.



# A d d i t i o n a l R e s o u r c e s



**QUALITY IMPROVEMENT CENTER**  
ON ENGAGING YOUTH IN  
FINDING PERMANENCY



## Online Free Training for Court and Legal Professionals

Children and youth are experts about their own lives. They need to be engaged as partners, especially in decisions related to legal, cultural and relational permanency. This requires a paradigm shift for child welfare courts and legal professionals in terms of training, policy and practice.

The QIC-EY Child and Youth Engagement Online Training for Legal Professionals will help to ensure that children and youth can partner safely and effectively in shared decision-making.



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[Home](#) » [Training & Events](#) » [Dependency 201 for Judicial Officers](#)

## Dependency 201 for Judicial Officers

The **Dependency 201 for Judicial Officers** is designed as the next step for judicial officers who have completed **Dependency 101** or who are seeking deeper engagement with the complexities of child abuse and neglect cases in Washington State. These interactive, on-demand courses explore advanced topics in dependency law and practice. They build on foundational knowledge to strengthen judicial officers' skills in balancing competing interests, analyzing complex case dynamics, and ensuring decisions are legally sound, trauma-informed, and responsive to the needs of children and families.

### Safety Framework

This course provides an overview of the safety framework contained in the American Bar Association's Model Rules of Professional Conduct. The safety framework helps courts and dependency systems address the family time plans and case planning in child welfare cases.

*Estimated Length: 60 minutes*  
*Continuing Judicial Credits (CJE) available*

### High-Potency Synthetic Opioids

This course provides judicial officers with an overview of high-potency synthetic opioids, including fentanyl and similar substances, and their impact on child welfare cases. It explores how these substances affect parental functioning, child safety, and case planning, while offering guidance on evaluating evidence, understanding testing limitations, and making informed judicial decisions in the context of dependency proceedings.

*Estimated Length: 60 minutes*

### Child and Youth Engagement

#### QIC-EY Child and Youth Engagement Online Training for Legal Professionals

Children and youth are experts in their own lives. Their meaningful participation is essential, particularly in decisions related to legal, cultural, and relational permanency. Many courts and legal professionals must adopt new approaches to training, policy, and practice to support this engagement. This course provides practical guidance to ensure children and youth can participate safely and effectively in shared decision-making.

*Estimated Length: 60 minutes*

Available on AOC's website  
under training and e-learning  
events.

## Four Ways That Courts Can Actively Engage Children and Youth Involved in Child Welfare Proceedings



Children and youth are experts on their own lives, but often they are not engaged meaningfully in their own child welfare cases by court professionals. They frequently have little or no power over important aspects of their lives that are impacted by court involvement. Court professionals need to engage authentically, meaningfully, and directly with children and youth to determine what they want and which options will work best for them and their families.

fully what they need. As a result, engagement strategies need to be tailored to each individual's age and level of development. Even though the roles of stakeholders vary, everyone on the court team needs to work to ensure that children and youth feel empowered to have a voice and a choice about their futures. Following are four ways that court professionals can engage children and youth of all ages authentically and can ensure their involvement in all decisions

Publication • 02/22/23

## Four Ways That Courts Can Actively Engage Children and Youth Involved in Child Welfare Proceedings

Four Ways That Courts Can Actively Engage Children and Youth Involved in Child Welfare Proceedings ([Link](#))

- 1) Use court hearings as opportunities to build relationships with children and youth.
- 2) Create a child-and-youth-friendly court environment.
- 3) Create opportunities to engage children and youth between court hearings.
- 4) Partner with people who have lived expertise to create a court process and an environment that promote success.

# YEP

## Youth Engagement Project

A toolkit to elevate resources, tools, and best practices around authentic engagement of youth in court

**Toolkit:** A toolkit to elevate resources, tools, and best practices around authentic engagement of youth in courtroom. Developed by the Annie E. Casey Foundation and the American Bar Association's Center on Children and the Law.

### ABA Materials

#### New Tools By the ABA and the Annie E. Casey Foundation:

- [AECF Court Jargon Glossary](#) by Leslie McClain
- [Caseworker Self-Assessment](#)
- [Family Court Judge Self-Assessment](#)
- [Sample Youth Engagement Survey](#)
- [Attorney Self-Assessment](#)



#### New State Resources:

- [Authentic Engagement Snapshot: 5th Judicial District \(Iowa\)](#)
- [Authentic Youth Engagement Survey \(Iowa\)](#)

### Other Articles & Materials

- [Transition Plan](#)
- [Transition Plan](#)
- [Youth Report](#)
- [A Guide to Youth Engagement in the Circuit State](#)
- [Strategies to Support Meaningful Youth Engagement in Court](#)
- [With Me, Not Without Me: How to Involve Children in Court](#)
- [Seen and Heard: Involving Children in Dependency Court](#)

#### Areas of Focus



#### Engaging Youth in Court

The project is a national leader on engaging youth in their court hearings. Federal and state laws increasingly support this concept. The project ensures systems serving youth, and youth themselves, support meaningful youth engagement in court.



#### Permanency and Transition

Youth in care often enter independent living without support. Federal laws support these needs. Judges and attorneys support permanency and positive youth.



#### Extending Care after Age 18

The Fostering Connections Act of 2008 provides federal reimbursement to states for extending foster care beyond age 18. Many states have taken this option. The role of courts and attorneys is critical to support permanency for these youth.



#### Adolescent Brain Research

With funding from the Annie E. Casey Foundation's Youth Opportunities Initiative, a toolkit on applying adolescent brain science to youth in court hearings and case planning.

#### Training and Technical Assistance

The project structures training/TA to meet your state's needs. We tailor training to match where your state is regarding engaging youth in court. We'll take you to the next level.

[Learn More - TRAINING & TA](#)

#### Adolescent Brain Research Toolkit:

The following resources were developed by ABA Center on Children and the Law, Youth Engagement Project, funded by the Annie E. Casey Foundation's Jim Casey Youth Opportunities Initiative.

- [How Adolescent Brain Science Supports Youth Engagement in Court Hearings and Case Planning](#)
- [Adolescent Brain Science Case Scenarios](#)
- [Brain Frames: How Attorneys Can Engage Youth in Case Planning and Court Hearings](#)
- [Quick Reference Guide: Federal Laws Supporting Youth in Foster Care Transitioning to Adulthood](#)
- [ABA Resolution 613, Presumption of Child Presence in Dependency Proceedings](#)

# BC

## Bench Cards

Judicial Resources

# NCTSN BENCH CARD

## FOR THE TRAUMA-INFORMED JUDGE

WWW.NCTSN.ORG

Research has conclusively demonstrated that court-involved children and adolescents present with extremely high rates of traumatic stress caused by their adverse life experiences. In the court setting, we may perceive these youth as inherently disrespectful, defiant, or antisocial, when, in fact, their disruptive behavior may be better understood in the context of traumatic stress disorders. These two Bench Cards provide judges with useful questions and guidelines to help them make decisions based on the emerging scientific findings in the traumatic stress field. These cards are part of a larger packet of materials about child and adolescent trauma available and downloadable from the [NCTSN Trauma-Informed Juvenile Justice System Resource Site](http://www.nctsn.org)\* and are best used with reference to those materials.



# Seen, Heard, and Engaged:

Children in Dependency  
Court Hearings

August 2012

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Seen, Heard, and Engaged: Children in Dependency Court Hearings ([Link](#))



# Thank you!

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