

Washington State Judicial Branch 2023 Supplemental Budget FY 2023 Children’s Representation Program

Agency: Office of Civil Legal Aid

Decision Package Code/Title: 1S – FY23 Children’s Rep. Program

Agency Recommendation Summary Text:

FY 2023 supplemental funding is requested to ensure full and proper implementation of legislative mandates that certain children and youth receive the effective assistance of appointed counsel in dependency cases pursuant to RCW 13.34.212. (General Fund-State)

Fiscal Summary:

	FY 2022	FY 2023	Biennial	FY 2024	FY 2025	Biennial
Staffing						
FTEs	0.00	0.00	0.00	0.00	0.00	0.00
Operating Expenditures						
Fund 001-1	\$0	\$648,630	\$648,630	\$0	\$0	\$0
Total Expenditures	\$0	\$648,630	\$648,630	\$0	\$0	\$0

Package Description:

The Office of Civil Legal Aid (OCLA) is the independent judicial branch agency assigned by the Legislature to administer and oversee the statewide Children’s Representation Program established in RCW 2.53.045 and subject to the requirements of RCW 13.34.212. Under this program, OCLA is required to engage, contract with, and oversee attorneys appointed to represent children and youth in dependency and certain related parental rights termination cases.

Under RCW 13.34.212(1), OCLA must contract with qualified attorneys appointed to represent all children and youth who remain dependent six months following termination of their parents’ legal rights and children (“legally free children and youth”) and youth in extended foster care (EFC). In accordance with RCW 13.34.212(3) OCLA began implementation of a program to engage attorneys to represent children and youth ages 8 and above in all dependency (and related parental rights termination) cases throughout Washington State. Implementation is to be undertaken on a county-by-county basis with full statewide coverage to be operational by January 2028. All representation must be conducted consistent with representation, caseload, and training standards adopted by the Washington State Supreme Court’s Commission on Children in Foster Care (CCFC). Under the statute, the right to appointed counsel is absolute, subject only to the availability of appropriated funds.

This request seeks \$648,630 in FY 2023 supplemental funding to ensure that all children entitled to appointed counsel under the legally free and EFC provisions as well as the first eight counties in which children and youth ages 8 and above have an entitlement to appointed counsel in all dependency cases. These include children and youth in Cowlitz, Lewis, Grant, Benton-Franklin, Yakima, Kittitas, and Walla Walla Counties.

This request will fill a shortfall in appropriated funding that is driven by three principal variables:

1. A change in the caseload standard for attorneys engaged in the representation of children and youth in dependency cases. The Children’s Representation Standards Work Group established by the CCFC pursuant to legislative request in Sec. 9, ch. 210, laws of 2021. On unanimous recommendation of the Work Group, the CFCC adopted a revised standard that sets a maximum of 45 dependency clients and a total of 60 cases for

experienced and competent full-time children’s representation attorneys.¹ The former standard was 60 clients and up to 80 cases. This change was incorporated into OCLA’s FY 2023 CRP attorney contracts.

2. Changes in the counties identified for the FY 23 Cohort from those assumed in OCLA’s March 2021 fiscal note projections. OCLA made a few changes in the counties that would be included in the first year’s roll-out. OCLA’s 3/24/21 fiscal note projected initial implementation in Benton, Franklin, Yakima, Grant, Lewis, Kittitas, and Adams Counties. The revised plan calls for implementation in Benton, Franklin, Yakima, Grant, Lewis, Cowlitz, Kittitas, and Walla Walla Counties.
3. More accurate caseload numbers for the affected counties than what was available at the time OCLA prepared the March 2021 fiscal note. The changes substantially increased the number of children for whom attorneys must be appropriated. Instead of an initial assumption of 532 dependency cases in the counties included in the fiscal note’s FY 2023 assumptions, the current number is 1,022.

Supplemental funding requested will ensure that all children and youth eligible for appointed counsel under current law receive the same during FY 2023.

Fully describe and quantify expected impacts on state residents and specific populations served:

This request ensures that all children and youth in dependency cases who are eligible for appointed counsel to represent their stated and legal interests in accordance with legislatively endorsed practice, caseload, and training standards receive the same.

Explain what alternatives were explored by the agency and why they were rejected as solutions:

There are no alternatives to this request. The right to appointed counsel is absolute. The duty to underwrite this program was assumed by the State of Washington. Counties have no responsibility to underwrite costs associated with this state mandate.

What are the consequences of not funding this request?

The Office of Civil Legal Aid will be unable to pay attorneys appointed to represented children and youth under RCW 13.34.212(1) and (3). Contractors will be free to submit claims for breach of contract against OCLA and the state.

Is this an expansion or alteration of a current program or service?

This request ensures OCLA’s ability to meet current fiscal year obligations. There is no expansion.

Decision Package expenditure, FTE and revenue assumptions:

The FY 2023 expenditure assumptions in relation to currently budgeted amounts (based on OCLA’s March 2021 fiscal note) are attached. No new staff is required and there are no changes in any line item other than the expenses for professional services (attorneys appointed to represent children and youth).

Expenditures by Object	<u>FY 2022</u>	<u>FY 2023</u>	<u>FY 2024</u>	<u>FY 2025</u>
C Personal Service Contracts		795,865		
S Inter-agency Reimbursement		(147,235)		
Total Objects		648,630		

¹ The updated Practice, Caseload, and Training Standards are found at: <https://ocla.wa.gov/wp-content/uploads/2022/09/5a-Final-August-16-2022-Child-Rep-Practice-Standards-002.pdf>

How does the package relate to the Judicial Branch principal policy objectives?

- Fair and Effective Administration of Justice
- Accessibility
- Access to Necessary Representation
- Commitment to Effective Court Management
- Sufficient Staffing and Support

This request ensures that children and youth entitled to the effective assistance of appointed counsel in dependency cases receive the same. This serves objective No.’s 1, 2, and 3

Are there impacts to other governmental entities?

No impacts on other agencies, courts, or local governments.

Are there legal or administrative mandates that require this package to be funded?

This request ensures OCLA’s ability to comply with legislative mandates to ensure effective, standards-based representation for children and youth eligible for appointed counsel under RCW 13.34.212.

Does current law need to be changed to successfully implement this package?

No.

Are there impacts to state facilities?

No.

Are there other supporting materials that strengthen the case for this request?

No.

Are there information technology impacts?

No.

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COST PROJECTIONS FOR FY 2023 SUPPLEMENTAL BUDGET REQUEST

OCLA CHILDREN'S REPRESENTATION PROGRAM

					FY 2022 - 2023							
HB 1219 Implementation Cohort Counties	Open Cases (Per fiscal note)	Rev. Number	FTE's Fully Operational (per old caseload standard)	Revised Fully Operational (per new caseload standard)	FY 2022	FY 2023	FY 22-23 Bennium (per Budget)	FY 2022 Per New Caseload Standard	FY 2023 Per New Caseload Standard	FY 22-23 (Current Projection)	Difference (Supplemental Request Required)	
Cohort 1 (2023) (Grant, Lewis, Cowlitz, Yakima, Benton, Franklin, Walla Walla, Kittitas)	532	1,022	9	23		\$957,600	\$957,600		\$1,907,733	\$1,907,733	\$950,133	
Cohort 2 (2024) (Thurston, Mason, Adams, Grays Harbor, Pacific, Klickitat, Skamania)	441	522	7	12							\$0	
Cohort 3 (2025) (Pierce, Whitman, Stevens, Ferry, Pend Oreille)	634	891	11	20							\$0	
Cohort 4 (2026) (Spokane, Lincoln, Kitsap, Clallam, Jefferson, Chelan, Douglas, Clark, Skagit, Whatcom)	866	2162	14	48							\$0	
Cohort 4 (2027) (King, Snohomish, Okanogan, Asotin, San Juan, Island, Wahkiakum, Garfield, Columbia)	744	1334	12	30							\$0	
Extraordinary Compensation @ 10% of Cases					\$0	\$97,300	\$97,300				\$97,300	
Total Professional Service Attorney Contracts	3217		54	132	\$0	\$1,054,900	\$1,054,900		\$1,907,733	\$1,907,733	\$852,833	
OCLA Staff Additions (4 FTE's when fully operational)												
Source Attorneys (1 FTE per 40 Contracted FTE's Phased In -- Total 2)	Salary				\$52,000	\$107,120	\$159,120	\$52,000	\$211,120	\$263,120	\$104,000	
	Benefits				\$16,640	\$34,278	\$50,918	\$16,640	\$67,558	\$84,198	\$33,280	
Contract Manager (1)	Salary				\$27,500	\$56,650	\$84,150	\$27,500	\$47,000	\$74,500	-\$9,650	
	Benefits				\$8,800	\$18,128	\$26,928	\$8,800	\$15,040	\$23,840	-\$3,088	
Statewide Training Coordinator (1)	Salary				\$45,000	\$92,700	\$137,700	\$0	\$75,000	\$75,000	-\$62,700	
	Benefits				\$14,400	\$29,664	\$44,064	\$0	\$24,000	\$24,000	-\$20,064	
Goods And Other Services					\$22,500	\$30,000	\$52,500	\$22,500	\$30,000	\$52,500	\$0	
Training (Law School Clinical Program Begin FY 24)					\$15,000	\$75,000	\$90,000	\$15,000	\$75,000	\$90,000	\$0	
Travel					\$2,000	\$5,449	\$7,449	\$2,000	\$5,449	\$7,449	\$0	
Case Management System					\$0	\$1,946	\$1,946	\$0	\$2,919	\$2,919	\$973	
Interpreters					\$0	\$5,000	\$5,000	\$0	\$7,500	\$7,500	\$2,500	
Social Workers/Experts					\$0	\$25,000	\$25,000	\$0	\$25,000	\$25,000	\$0	
Total					\$203,840	\$1,535,835	\$1,739,675					
					FY 2022	FY 2023	FY 22-23 Bennium					
	Salaries				\$124,500	\$256,470	\$380,970	\$79,500	\$333,120	\$412,620	\$31,650	
	Benefits				\$39,840	\$82,070	\$121,910	\$25,440	\$106,598	\$132,038	\$10,128	
	Professional Service Contracts				\$15,000	\$1,257,200	\$1,272,200	0	\$2,015,233	\$2,015,233	\$743,033	
	Goods and Services				\$22,500	\$31,946	\$54,446	\$22,500	\$30,000	\$52,500	-\$1,946	
	Travel				\$2,000	\$5,449	\$7,449	\$15,000	\$5,449	\$20,449	\$13,000	
	Total				\$203,840	\$1,633,135	\$1,836,975	\$142,440	\$2,490,401	\$2,632,841	\$795,865	
	Fed. IV-E Reimbursement				-\$37,710	-\$302,130	-\$339,840	-\$26,351	-\$460,724	-\$487,075	-\$147,235	
	Net GF-S Outlay				\$166,130	\$1,331,005	\$1,497,135	\$116,089	\$2,029,676	\$2,145,765	\$648,630	