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Supreme Court No. 92448-1

IN THE SUPREME COURT OF THE STATE OF WASHINGTON

IN RE THE DEPENDENCY OF D.L.B.,

STATE OF WASHINGTON,
DEPARTMENT OF SOCIAL AND HEALTH SERVICES,

Respondent,

v.

EDELYN SAINT-LOUIS,

Petitioner.

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WASHINGTON STATE
SUPREME COURT
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**SUPPLEMENTAL BRIEF OF *AMICI CURIAE* WASHINGTON
DEFENDER ASSOCIATION, INCARCERATED
PARENTSADVOCACY CLINIC, LEGAL VOICE,
ACLU OF WASHINGTON, WASHINGTON STATE COALITION
AGAINST DOMESTIC VIOLENCE, AND INCARCERATED
MOTHERS ADVOCACY PROJECT**

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I. INTRODUCTION

In this age of mass incarceration, thousands of children and parents are harmed when family ties are permanently severed because of parental incarceration. To ensure, where possible, that a parent's incarceration during a child's dependency does not result in the unnecessary termination of the parent-child relationship, the Washington State Legislature enacted critical changes to Washington's dependency and termination statutes. As lead advocates for this legislation, *Amici* have a strong interest in the law's proper implementation. In this case, both the trial court and the Department of Social and Health Services ("DSHS") failed to comply with the requirements and intent of the law. Division I unfortunately ratified this failure, misinterpreting the law in a manner that substantially undermines the protections that Substitute House Bill 1284 was intended to provide to incarcerated parents and their families.

Amici are also deeply concerned that the mother's status as a victim of domestic violence was regarded as a parenting deficiency to justify termination of her parental rights. Basing a decision to terminate a parent's rights to her child on the fact that she has been a victim of domestic violence is contrary to law, and undermines Washington State's strong public policy of protecting and supporting domestic violence survivors and holding perpetrators – not victims – accountable for abuse.

II. IDENTITY AND INTEREST OF *AMICI CURIAE*

Amici are non-profit public interest law organizations, a law school clinic, a law student-led advocacy group, and Washington's statewide

coalition of advocates for survivors of domestic violence. All are interested in ensuring that parents and children are not needlessly separated when a parent is incarcerated or has been victimized by domestic violence. A complete list of the statements of interest of *amici* is included in the motion for leave to file an amicus brief, filed herewith.

III. STATEMENT OF THE CASE

Amici adopt the Petitioner's Statement of the Case.

IV. SUMMARY OF ARGUMENT

In 2013, the Legislature passed Substitute House Bill 1284 ("SHB 1284") to Laws of 2013, ch. 173. Substitute H.B. 1284, 63rd Leg., Reg. Sess. (Wash. 2013). The bill was designed to improve the likelihood that a parent and child could maintain their relationship during parental incarceration, in recognition of the numerous harms to children and parents when family ties are permanently severed. In upholding the trial court's failure to apply the required incarcerated parent factors in this termination trial, Division I misinterpreted SHB 1284, holding that a court need not consider the new law's incarcerated parent factors unless that parent is incarcerated at the time of the termination decision. *In re Dependency of D.L.B.*, 188 Wn. App. 905, 355 P.3d 345 (Div. I 2015). This decision undermines the Legislature's intent to support families facing parental incarceration and reduce the chances of separation during a

dependency as well as at termination. To conform to both the Legislature's intent and the statutory framework as a whole, SHB 1284 must be interpreted to require trial courts to consider the new requirements added to RCW 13.34.180(1)(f) if a parent is incarcerated during a child's dependency.

Division I also ratified the trial court and DSHS' use of Ms. Saint-Louis' status as a domestic violence victim to terminate her parental rights. This is contrary to law, and flouts the policies of this state expressed in multiple contexts. Blaming victims of violence for their victimization undermines the safety of domestic violence survivors and cannot be a basis for the termination of a mother's rights to her children.

V. ARGUMENT

A. **Maintaining the Parent-Child Relationship is Critical to Mitigating the Harmful Impact of Parental Incarceration.**

Amici and formerly incarcerated parents sought improvements in Washington State's dependency and termination statutes because severing a parent-child relationship due to parental incarceration harms children, families, and communities.

1. Parents and children have fundamental rights to their relationship.

Both the courts and the Legislature have long recognized the family as a sacred entity. One of the most essential parts of the family unit is the bond shared between parent and child.

The right of a natural parent to the companionship of his or her child . . . must therefore be viewed as ‘so rooted in the traditions and conscience of our people as to be ranked as fundamental.’ *Snyder v. Massachusetts*, 291 U.S. 97, 105, 54 S. Ct. 330, 332, 78 L. Ed. 674 (1934), cited with approval in *Griswold v. Connecticut*, 381 U.S. 479, 487, 85 S. Ct. 1678, 14 L. Ed. 2d 510 (1965). In *May v. Anderson*, 345 U.S. 528, 533, 73 S. Ct. 840, 843, 97 L. Ed. 1221 (1953), the right of a parent to a child's companionship was considered to be ‘far more precious . . . than property rights’ and in *In re Gibson*, 4 Wash.App. 372, 379, 483 P.2d 131 (1971) . . .the right was characterized as even ‘more precious . . . than the right of life itself.’

In re Myricks' Welfare, 85 Wn.2d 252, 253-54, 533 P.2d 841 (1975) (emphasis added). The significance of that relationship is not destroyed when a parent is incarcerated. Neither is a child's need for their parent.

2. Separation during parental incarceration may be extremely harmful to children.

A growing body of research demonstrates that children of incarcerated parents experience challenges when separated from a parent because of parental incarceration. These difficulties include a drop in academic performance, mental health issues, economic hardship, and familial instability. See Steve Christian, *Children of Incarcerated Parents*, Nat'l Conference of State Legislatures, 2-3 (Mar. 2009). Studies have found “strong evidence that affected children are prone to depression,

difficulty in sleeping or concentrating, academic or disciplinary problems at school, aggression or withdrawal, delinquency, increased risk of abuse or neglect, distrust of authority, and disruption of development.” Martha L. Raimon et al., *Sometimes Good Intentions Yield Bad Results: ASFA’s Effect on Incarcerated Parents and Their Children*, in Intentions and Results: A Look Back At The Adoption And Safe Families Act 124 (Olivia Golden et al., eds., Center for the Study of Social Policy, Urban Inst., Dec. 11, 2009).

The risks posed to children in families with an incarcerated parent increase exponentially when that family is involved in dependency or termination proceedings. As this Court has explained, being separated from family and shuffled through the foster care system puts children at risk: “. . . 11.3 percent of children are moved three or more times in the first two years in the State’s care . . . this court and the Washington State Legislature have already noted that these moves themselves may cause children significant harm.” *In re Dependency of M.S.R.*, 174 Wn.2d 1, 16, 271 P.3d 234 (2012), *as corrected* (May 8, 2012) (*citing Braam v. State*, 150 Wn.2d 689, 694, 81 P.3d 851 (2003) and RCW 74.13.310.)

3. Contact during parental incarceration can help mitigate those harmful effects.

When the state has intervened in the family through a dependency proceeding, regular, consistent visitation is crucial to maintaining parent-child bonds and making it possible for families to safely reunify. RCW 13.34.136(1)(b)(ii). *See also In re Dependency of T.L.G.*, 139 Wn. App. 1,

17, 156 P.3d 222 (2007), *In re Dependency of Tyler L.*, 150 Wn. App. 800, 802, 208 P.3d 1287 (2009), *In re Welfare of R.S.G.*, 174 Wn. App. 410, 426, 299 P.3d 26 (2013). This is as true of incarcerated parents and their children as it is of any family involved in the child welfare system.

In keeping with this principle, the evidence suggests that ongoing contact between incarcerated parents and their children significantly reduces the negative effects of parental incarceration on children. “Strong parent/child attachments are the most crucial building blocks toward reducing delinquency among children of incarcerated parents and mediating the effects of parental incarceration.” Raimon et al., *ASFA’s Effect on Incarcerated Parents and Their Children* at 125. Indeed, these positive affects inure to parents as well as children. Miriam L. Bearse, Wash. Dep’t of Social and Health Services, *Children and Families of Incarcerated Parents: Understanding the Challenges and Addressing the Needs* 9-15 (June 2008) (“Studies have also shown that visitation may help the incarcerated parent by reducing rates of parental recidivism.”).

When connection with the parent is maintained, a child’s chances for a positive outcome in his or her own life improve. *See, e.g.,* N.G. LaVigne et al., *Examining the Effect of Incarceration and In-prison Family Contact on Prisoners’ Family Relationships*, 21 J. Cont. Crim. Justice 314 (2005). Indeed, a majority of children continue “to value their relationship with their [incarcerated] parent.” *Id.* at 91-92. Children in one study found their incarcerated parent “just as helpful as their non-

incarcerated caregivers, suggesting that the children...perceive their incarcerated parent to be an important person in their social support network.” *Id.* (citing Erika London Bocknek & Jessica Sanderson, *Ambiguous Loss and Posttraumatic Stress in School-Age Children of Prisoners*, 18 J. Child and Fam. Stud. 323, 330 (2009)). Accord Nell Bernstein, All Alone in the World: Children of the Incarcerated 71 (2005) (despite her father’s incarceration throughout her childhood, one woman reported that her father remained the most important person in her life due to the contact she was granted over the years).

These studies counteract the “common assumptions about children whose parents are incarcerated, including the idea that young children are better off not seeing a parent who is in jail or prison, that young children are better off not knowing the parent at all, and that young children are resilient in the face of trauma of separation from the parent.” Lynne Reckman and Debra Rothstein, *A Voice for the Young Child with an Incarcerated Parent*, 14 Child. Rts. Litig. 19, 28 (2012). Maintaining the relationship between the child and incarcerated parent promotes permanency, eases the child’s feelings of anxiety and loss, and reduces the “damaging effects of separation.” *Id.* Promoting ongoing contact also helps children by better allowing them to express their emotional reactions to separation from the parent, and ensures that they have a more realistic understanding of the circumstances. It also helps reduce child anxiety by ensuring that children know their parents are safe. *Id.*

Further, severing parent/child contact may too often put the child in harm's way. Deseriee A. Kennedy, *Children, Parents & the State: The Construction of a New Family Ideology*, 26 Berkeley J. Gender L. & Just. 78, 106-7 (2011) ("The children of incarcerated parents are more likely to remain in foster care until they are 18 years old and "age out" of the system than other children in state care."). Thus, the recommendation is to "think critically" about the standards for termination of parental rights, and to modify the construction and administration of prisons to support incarcerated parents. *Id.* at 95.

B. Institutional barriers make it more difficult for parents and children to maintain contact.

Both incarcerated *and* formerly incarcerated parents face unique barriers to reunifying with their children that are a direct result of parental incarceration. For incarcerated parents, visitation with their children is out of their control, and is inconsistent at best and more often minimal or nonexistent. Tanya Krupat, *Invisibility and Children's Rights: The Consequences of Parental Incarceration*, 29 Women's Rts. L. Rep. 39, 42 (2007). In particular, the high cost of telephone calls has been devastating to families. *See e.g. Judd v. American Tel. and Tel. Co.*, 152 Wn.2d 195, 95 P.3d 337 (2004) (lawsuit alleging AT&T and other phone companies failed to disclose exorbitant rates for collect calls from prison). And yet, courts tend to hold these parents, rather than the institution, accountable

for this lack of contact in parental rights proceedings. See Deseriee A. Kennedy, “*The Good Mother: Mothering, Feminism, and Incarceration*,” 18 Wm. & Mary J. Women & L. 161 (2012).

This is one reason why, prior to enactment of SHB 1284, even absent a showing of neglect or abuse of the child, the prevailing norm was to terminate parental rights where the parent faced a lengthy incarceration that made that parent “unavailable” to parent from outside the institution. See, e.g., *In re Dependency of J.W.*, 90 Wn. App. 417, 953 P.2d 104 (1998); see also Kennedy, *Children, Parents & the State*, 26 Berkeley J. Gender L. & Just. at 104-05. See also Arlene Lee et al., *The Impact of the Adoption and Safe Families Act on Children of Incarcerated Parents*, Child Welfare League of America, 8 (2005) (most judges and attorneys believed that incarceration was highly correlated with termination). And for formerly incarcerated parents, the impact of the time lost during that incarceration is felt at subsequent termination proceedings, by virtue of the factors that courts typically consider in those termination cases.

C. The Legislature Intended SHB 1284 To Help Reunify Families

The enactment of SHB 1284 represented a shift in the culture around working with families facing parental incarceration and the child welfare system. As the bill’s prime sponsor, Representative Mary Helen

Roberts, explained, children “fare better when they maintain ties with their incarcerated parents.” Committee Hearing on HB 1284 before the House Early Learning and Human Services Committee, 63rd Leg., Reg. Sess. (February 5, 2013) (testimony of Rep. Roberts). Representative Roberts also reminded her colleagues that SHB 1284 followed extensive work done by the Legislature since 2005 to help prevent the unnecessary termination of parental rights. *Id.* (describing the Legislature’s enactment of a bill to create new guardianship opportunities for incarcerated parents). The Legislature also passed a law in 2007 that recognized the importance of maintaining family connections and, to that end, required DSHS to “adopt policies that encourage familial contact and engagement between inmates and their children with the goal of reducing recidivism and intergenerational incarceration.” H.R. 1422, 60th Leg., Reg. Sess. (Wa. 2007); *see also* RCW 74.04.800 (requiring the secretary of social and health services to adopt policies encouraging familial contact between children and incarcerated parents); RCW 72.09.495 (requiring the secretary of corrections to adopt such policies).

In her testimony, Representative Roberts also highlighted that the intention of SHB 1284 was to recognize the need to maintain parent-child contact despite incarceration, and to enshrine in law that termination of parental rights is not necessarily in a child’s best interests:

Also, we have really set as a top priority and I think this bill maintains that top priority, is that what we are trying to do is in the best interest of the child. Research tell us that bond between a parent and child is really a very profound one and it is one that if at all possible that we should try and maintain . . . incarceration should not be the sole reason for termination of parental rights . . .

Committee Hearing on HB 1284 at 2:23:15 – 28.

D. Given this context, it is illogical to limit the application of RCW 13.34.180(1)(f) to parents incarcerated during the termination trial.

When interpreting a statute, the Court determines legislative intent through both the language and context of the particular statute. *Dep't of Ecology v. Campbell Gwinn, L.L.C.*, 146 Wn.2d 1, 9, 43 P.3d 4 (2002). This view of plain meaning incorporates more than simply the text in question. “Context” may include matters outside of the code and session laws such as “background facts of which judicial notice can be taken . . . because presumably the legislature was also familiar with them when it passed the statute.” *Id.* at 11 (*citing* 2A Norman J. Singer, *Statutes and Statutory Construction* § 48A:16, at 809-10 (6th ed. 2000)).

1. The plain language of the rest of RCW 13.34.180(1)(f) compels reversal.

While *Amici*, in hindsight, would have appreciated statutory language that anticipated this dispute over the meaning of this provision, the interpretation adopted by Division I is illogical when read with the rest of RCW 13.34.180(1)(f). For example, the provision reads “[i]f the parent

is incarcerated, the court shall consider...whether the department or supervising agency made reasonable efforts as defined in this chapter.” Contrary to the State’s assertion that (1)(f) is meant to look forward, this clause of the provision undeniably requires the court to look back at what DSHS has done to make reasonable efforts to promote family reunification. RCW 13.34.180(1)(f). Likewise, the third factor in this provision also requires a trial court to look back, mandating consideration of whether barriers existed “in accessing visitation or other meaningful contact with the child.” *Id.* This mirrors the other provisions of SHB 1284. *See, e.g.,* RCW 13.34.136(2)(b)(i)(A) (requiring consideration of incarceration in a parent’s service plan).

2. The context of RCW 13.34.180(1)(f)’s enactment supports its application to parents incarcerated during dependency.

When it passed SHB 1284, the Legislature was aware of the information that *Amici* provided above, regarding the harm to children and families of separation due to parental incarceration. The Legislature also understood that maintaining visitation with a child was a significant barrier for incarcerated parents.¹ This is why the Legislature mandated

¹ In one study, approximately 59 percent of parents in a state correctional facility and 45 percent of parents in a federal correctional facility reported never having had a personal visit from their children. Lauren Glaze & Laura Maruschak, *Parents in Prison and Their Minor Children*, 18 Appendix Table 10, Bureau of Justice Statistics (2010).

visitation opportunities (RCW 13.34.136(2)(b)(i)(A)) and consideration at termination of whether the incarcerated parent faced barriers to visitation (RCW 13.34.180(1)(f)). These mandates are in stark contrast to the previously held assumptions that that an incarcerated parent's time spent in prison is "dead time," in which the parent cannot actively work to maintain contact with their children. *See Philip M. Genty, Moving Beyond Generalizations and Stereotypes to Develop Individualized Approaches to Working With Families Affected by Parental Incarceration*, 50 Family Court Rev. 36, 38 (2012).

Given this context, it is illogical to accept the contention that parent who has been incarcerated during the dependency and experiences exactly the kinds of barriers to visitation with which this statute is concerned, but does not happen to be incarcerated at the time of the termination trial, cannot avail herself of the laws' protections. As the Legislature understood, parental incarceration creates challenges for children and parents whenever it arises. In short, *Amici* urge this Court to hold that RCW 13.34.180(1)(f) applies to parents who are incarcerated during the underlying dependency, regardless of whether they are incarcerated at the time of the court's decision on a termination petition.

E. A Parent's Status as a Victim of Domestic Violence Cannot Be Considered a Parenting Deficiency

In addition to failing to apply the required incarcerated parent factors, Division I improperly regarded Ms. Saint-Louis's domestic violence victimization as a parenting deficiency that justified the termination of her parental rights. *D.L.B.*, 188 Wash. App. at 922. It should be beyond question that a domestic violence survivor is not to blame for abuse committed against her. *See, e.g., Nicholson v. Williams*, 203 F. Supp. 2d 153, 252 (E.D.N.Y. 2002), *vacated by, in part, remanded by Nicholson v. Scoppetta*, 116 Fed. Appx. 313, 316 (2nd Cir. 2004) (“[i]t desecrates fundamental precepts of justice to blame a crime on the victim”). Blaming a victim of domestic violence, rather than the perpetrator, undermines Washington laws and policy to promote victim safety and abuser accountability.

1. Division I's decision relies improperly on myths about abuse survivors.

Washington's child abuse and neglect statutes recognize this. RCW 26.44.020(16) (“ . . . exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself”). Despite this legal mandate, Division I centered its discussion of Ms. Saint-Louis' alleged parental deficiencies on the fact that, at the time of the termination trial, she had been previously abused, and was at the time of

trial in a relationship with another man who had a history of domestic violence against his former spouse. *D.L.B.*, 188 Wash. App. at 922.

Without expressly stating it, Division I essentially accepted one of the many long-rejected, yet still prevalent, myths about domestic violence victims – in this case, that abuse victims make bad relationships choices, and thus are culpable for the abuse they suffer. Linda Quigley, *The Intersection of Domestic Violence and the Child Welfare System: The Role Courts Can Play in the Protection of Battered Mothers and Their Children*, 13 Wm. & Mary J. of Women & L. 867, 879 (2007) (“Battered women are often perceived as being susceptible to abusive relationships, and courts and the State will often assume that the mother will either remain with the abuser or enter other abusive relationships, leaving the child at risk.”). The State’s brief before this Court continues in that vein, arguing that Ms. Saint-Louis “knew the signs of impending abuse” and should take corrective steps to avoid it in the future. Supplemental Brief of Respondent, p. 18. This wrongly puts the focus on the victim parent, rather than the perpetrator of domestic violence. See Leigh Goodmark, *Achieving Batterer Accountability in the Child Protection System*, 93 Ky. L.J. 613 (2004) (explaining that “batterer accountability remains an elusive goal in most jurisdictions, leaving the child welfare system to default to victim-focused mechanisms for addressing cases involving domestic violence”).

2. Terminating a mother's parental rights because she is a victim of domestic violence is unconstitutional.

Blaming the victim parent in child welfare proceedings also infringes that parent's constitutional rights. One of the most precious rights protected by the Fourteenth Amendment is the right to care, custody, and control of one's children. *In re Myricks' Welfare*, 85 Wn. 2d at 253-54; *Santosky v. Kramer*, 455 U.S. 745, 758-759, 102 S. Ct. 1388, 71 L. Ed. 2d 599 (1982) (1982) (citing *Lassiter v. Dep't of Social Services*, 452 U.S. 18, 27, 101 S. Ct. 2153, 68 L. Ed. 2d 640 (1981)). As the U.S. Supreme Court has explained, this right "does not evaporate simply because [parents] have not been model parents or have lost temporary custody of their child to the state." *Santosky*, 455 U.S. at 753. Before the State may permanently sever the parent-child relationship, it must provide the parent with constitutionally sufficient procedural protections. *Santosky*, 455 U.S. 745, 753 (1982). And where fundamental rights are at stake, the State may not infringe such rights "at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest." *Washington v. Glucksberg*, 521 U.S. 702, 722, 117 S. Ct. 2258, 138 L. Ed. 2d 772 (1997) (citing *Reno v. Flores*, 507 U.S. 292, 302, 113 S. Ct. 1439, 123 L. Ed. 2d 1 (1993)).

Removing children from the homes of abused parents – who are most likely to be mothers – and terminating those rights based on the mother’s status as a victim of domestic violence is a twofold violation of constitutional rights. *See Nicholson v. Williams*, 203 F. Supp. 2d at 251.² First, terminating parental rights based on assumptions about a victim’s willingness or ability to protect her children in future domestic violence does not comport with procedural due process; rather, this action substitutes myths and stereotypes for the clear and convincing evidence required under the Fourteenth Amendment. Second, domestic violence victim parents’ substantive due process rights to their children are violated because blaming victim parents serves no compelling interest. Rather, doing so undermines the State’s interest in protecting children, because removing children from a parent because she is a domestic violence victim is harmful. *Id.* (“All of the experts agree that unnecessary removals harm children, and that children from homes with domestic violence are particularly sensitive to being separated from the non-abusive parent.”).

² In *Nicholson*, the District Court for the Eastern District of New York found that child protective services agency violated the constitutional rights of battered mothers when it removed their children from their care based on the mothers’ status as domestic violence victims. In response to the state’s appeal of this decision, the Second Circuit Court of Appeals certified to New York’s highest court questions designed to determine whether the agency’s actions violated state law; the New York court held that they had. *Nicholson v. Scoppetta*, 116 Fed. Appx. 313, 316 (2nd Cir. 2004). Thus, the Second Circuit partially vacated the District Court’s decision, remanding further proceedings to that Court. *Id.*

3. Blaming victims for domestic violence undermines state law and policy.

These concerns are reflected in DSHS and Washington State policies that encourage victims to report the violence they suffer, and ensure properly placed accountability for that violence. *See, e.g., Danny v. Laidlaw Transit Servs., Inc.*, 165 Wn.2d 200, 221, 193 P.3d 128 (2008) (the policy of this state is “to prevent domestic violence by encouraging domestic violence victims to escape violent situations, protect children from abuse, report domestic violence to law enforcement, and assist efforts to hold their abusers accountable”). As DSHS’ own practice guide provides, “children’s safety is best served when social workers . . . work collaboratively with the [domestic violence] victims to determine the best course of action, and engage . . . perpetrators in changing their abusive conduct and in becoming safe parents.” Anne Ganley et al., *Social Workers’ Practice Guide to Domestic Violence*, Children’s Administration, Washington State DSHS (revised Jan. 2016).

DSHS’s practice guide mirrors the principles developed by the Washington State Coordinated Response Protocol Project, created in 2002 and chaired by Justice Bobbe Bridge, which brought together DSHS, victim advocacy groups include *amicus* Washington State Coalition Against Domestic Violence, law enforcement, and the courts, to develop a

shared framework and protocols for addressing domestic violence and child protection. *See* Washington State Administrative Office of the Courts, *Domestic Violence Manual for Judges*, 11-18 (2006). As the Judges' Manual explains, “[e]very effort should be made to keep the children in the care of the adult, non-offending parent, and “[p]erpetrators of domestic violence must be held solely responsible for the violence while receiving interventions that address their abusive behaviors. *Id.*

Amici are discouraged that DSHS and the courts continue to apply these child *and* victim-protective principles sporadically, rather than fully integrating them into the discretionary decisions that have such a potentially devastating impact on families experiencing intimate partner violence. Characterizing a victim mother as having “unresolved domestic violence issues” that result in “parental deficiency” is dangerous to domestic violence victims who rely on our systems to protect them and their children – not punish them for the violence they suffer.

VI. CONCLUSION

In this case, Ms. Saint-Louis lost forever her parental rights to her child. Such devastating action requires the State to meet the Legislature’s requirements for efforts to keep families together, including its recent efforts to ensure that a parent’s incarceration is considered in a termination trial – even if that incarceration occurred prior to the date of trial. In

addition, the mother's domestic violence victim status is an improper ground for termination of her parental rights. *Amici* urge this Court to reverse Division I's decision affirming the trial court's termination of Ms. Saint Louis' parental rights, and remand for 1) proper consideration of the incarcerated parent factors and 2) exclusion of Ms. Saint-Louis' victim status from its analysis.

Respectfully submitted this 11th day of April, 2016,



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To the Clerk of the Court,

Please find attached the following documents for Case No. 92448-1, In re the Dependency of D.L.B.:

- 1) Motion of Washington Defender Association, Incarcerated Parents Advocacy Clinic, Legal Voice, ACLU of Washington, Washington State Coalition Against Domestic Violence, and Incarcerated Mothers Advocacy Project for Leave to File Supplemental Brief of Amici Curiae (with attached certificate of service); and
- 2) Supplemental Brief of Amici Curiae.

If you have any problems with either attachment, or if there are any concerns, please do not hesitate to contact me:

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Sincerely,

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