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**SUPREME COURT OF THE STATE OF WASHINGTON**

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In re the Termination of Parental Rights to:

D.H., S.T., L.L., and T.L

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**DEPARTMENT'S SUPPLEMENTAL BRIEF**

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ROBERT W. FERGUSON  
*Attorney General*

KARL D. SMITH, WSBA 41988  
*Deputy Solicitor General*

AMY HARRIS, WSBA 37988  
*Assistant Attorney General*

PO Box 40100  
Olympia, WA 98504-0100  
360-753-7085  
OID No. 91087

## TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	ISSUES ON REVIEW .....	1
III.	STATEMENT OF THE CASE .....	2
	A. The Department Assisted Ms. B. for Years Before Filing Dependency Petitions.....	2
	B. The Department Filed Dependency Petitions in June 2015.....	2
	C. The Department Provided Numerous Remedial Services .....	3
	D. The Juvenile Court Terminated Ms. B.’s Parental Rights .....	5
IV.	ARGUMENT .....	7
	A. Overview of the Requirement to Provide Remedial Services.....	7
	B. Ms. B. Received a Neuropsychological Evaluation More Than 15 Months Before Trial .....	8
	C. The Department Fulfilled its Responsibility to Offer DBT .....	12
	1. DBT was never a court-ordered service .....	13
	2. Unavailability of a service is not a basis for reversal.....	13
	3. Ms. B. was offered and provided DBT.....	15
	D. Ms. B.’s Parenting Classes Were Appropriately Tailored.....	16
V.	CONCLUSION .....	18

## TABLE OF AUTHORITIES

### Cases

<i>In re Dependency of D.A.</i> , 124 Wn. App. 644, 102 P.3d 847 (2004).....	8
<i>In re Dependency of K.D.S.</i> , 176 Wn.2d 644, 294 P.3d 695 (2013).....	7
<i>In re Dependency of T.L.G.</i> , 126 Wn. App. 181, 108 P.3d 156 (2005).....	10
<i>In re Matter of K.M.M.</i> , 186 Wn.2d 466, 379 P.3d 75 (2016).....	11
<i>In re Parental Rights to B.P.</i> , 186 Wn.2d 292, 376 P.3d 350 (2016).....	10
<i>In re Parental Rights to I.M.-M.</i> , 196 Wn. App. 914, 385 P.3d 268 (2016).....	17, 18
<i>In re the Termination of S.J.</i> , 162 Wn. App. 873, 256 P.3d 470 (2011).....	10, 11, 16, 17
<i>In re Welfare of H.W.</i> , 92 Wn. App. 420, 961 P.2d 963 (1998).....	17
<i>In the Matter of Dependency of D.L.B.</i> , 186 Wn.2d 103, 376 P.3d 1099 (2016).....	14
<i>Rest. Dev., Inc. v. Cananwill, Inc.</i> , 150 Wn.2d 674, 80 P.3d 598 (2003).....	9
<i>State v. James-Buhl</i> , 190 Wn.2d 470, 415 P.3d 234 (2018).....	9

## Statutes

RCW 13.34 .....	7
RCW 13.34.020 .....	15
RCW 13.34.025(2).....	15
RCW 13.34.136 .....	14
RCW 13.34.136(2)(b)(vii) .....	14
RCW 13.34.136(3).....	15
RCW 13.34.138(1).....	9, 11, 15
RCW 13.34.138(2)(c)(i).....	9
RCW 13.34.180(1).....	8, 11
RCW 13.34.180(1)(d) .....	passim
RCW 13.34.180(1)(e) .....	11, 16
RCW 13.34.190(1)(a)(i).....	8
RCW 13.34.190(1)(b).....	12, 16

## Rules

RAP 13.7(b) .....	7
RAP 18.13A.....	15

## I. INTRODUCTION

The children in this case waited in out-of-home care for three years while Ms. B. struggled to make progress in her ability to safely parent. During those years, the Department continued to identify and refer Ms. B. to remedial services. And with the benefit of those many services, Ms. B. did make progress in some areas. Unfortunately, she made only minimal progress, and, after three years, Ms. B. was still unable to consistently parent even two of her four children during *supervised* visitation. Though the Department never gave up on providing services to Ms. B., there was little likelihood that the children could be returned to her in the near future, and it was time to offer the children permanency in a forever home.

There is no merit to Ms. B.'s arguments challenging the sufficiency of the services she was provided. Each argument is based in part on a misunderstanding of RCW 13.34.180(1)(d). That section requires that certain services be "offered or provided" to parents. It is undisputed that Ms. B. was offered or provided all three of the services that she challenges.

This Court should affirm the orders terminating Ms. B.'s parental rights and allow the four children to move toward adoption.

## II. ISSUES ON REVIEW

1. Whether Ms. B. was offered or provided a neuropsychological evaluation in compliance with RCW 13.34.180(1)(d);
2. Whether Ms. B. was offered or provided dialectical behavioral therapy in compliance with RCW 13.34.180(1)(d); and

3. Whether the parenting instruction the Department provided to Ms. B. was appropriately tailored.

### **III. STATEMENT OF THE CASE**

#### **A. The Department Assisted Ms. B. for Years Before Filing Dependency Petitions**

Before filing the dependency petitions in 2015, the Department received over ten reports related to Ms. B. Exs. 17-19, p. 6; RP 185. The reports alleged that “there was ‘cat feces all over the place,’” and that the mother left cleaning supplies on the floor where her infant child could access them. Exs. 17-19, pp. 7-8; *see also id.* at p. 12 (noting “maggots falling from the garbage”). The Department referred Ms. B. to services five times before the June 2015 law enforcement referral. *Id.* at pp. 6, 8, 11-12.

#### **B. The Department Filed Dependency Petitions in June 2015**

In June 2015, the Department received a report from a sheriff’s deputy that Ms. B.’s home was “unfit and unsafe for the health and wellbeing of children.” Exs. 17-19, p. 4. The home was “riddled with trash, garbage and what appeared to be animal feces throughout,” including a bedroom filled with “bags of raw garbage and filthy clothing” and “a large amount of rodent feces, indicating infestation.” *Id.* The Department removed six-year-old D.H., three-year-old S.T., and two-year-old T.L. and filed dependency petitions as to each child. Exs. 5-7. The juvenile court later entered agreed dependency orders. Exs. 20-22, ¶ 4.5.

### **C. The Department Provided Numerous Remedial Services**

Following removal, the Department immediately began referring Ms. B to additional services. Even before the juvenile court entered the dependency orders, the Department referred her for a psychological evaluation. Ex. 56. Ms. B. also began individual mental health counseling and the Protective Parenting Group, a parenting education class, in July 2015. CP 179, ¶ 3.4.19<sup>1</sup>; Ex. 87; RP 84-85.

Ms. B. gave birth to L.L. in August 2015. Ex. 4. In advance of L.L.'s birth, the Department referred Ms. B. to Promoting First Relationships, a one-on-one parenting education course focused on newborn children. Ex. 57; RP 248. The juvenile court removed L.L. from Ms. B.'s care shortly after birth, and Ms. B. agreed to dependency as to L.L. Exs. 29, 32.

In October 2015, the Department made additional referrals for Ms. B. to continue parenting education and mental health counseling. Exs. 60, 61. The psychologist also issued his evaluation, determining that Ms. B. had the cognitive capability to comprehend education tools but seemed unwilling or unable to effectively parent. RP 449; *see also* Ex. 77. The psychologist recommended that Ms. B. complete a neuropsychological evaluation. Ex. 77, p. 17. The dependency court's October 2015 review hearing orders required that Ms. B. "engage in [a] neuropsychological evaluation [and] follow recommendations." Exs. 34-37, ¶ 3.11.

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<sup>1</sup> CP refers to the clerk's papers for D.H., unless otherwise noted.

The Department first referred Ms. B. for a neuropsychological evaluation less than four months later, in February 2016. Ex. 62. In the April 2016 dependency review hearing orders, Ms. B. agreed that the Department had complied with the prior court orders. Exs. 39-42, ¶¶ 1.3, 2.13. The orders changed the service plan by removing the requirement that Ms. B. “follow recommendations” of the neuropsychological evaluation. *Id.*, ¶ 3.9.

By June 2016, Ms. B. had not yet participated in a neuropsychological evaluation, and the Department provided a second referral. Ex. 63. Ms. B. chose to not attend the appointment because it conflicted with a visit. Ex. 87, p. 3. In July 2016, the Department made a third referral for a neuropsychological evaluation. Ex. 64. Ms. B. ultimately participated by October, Exs. 46-49, ¶ 3.9, and Dr. Tatyana Shepel issued her report in November 2016. Ex. 78.

The Department referred Ms. B. to the Positive Parenting Program (“Triple P”) in August 2016. Ex. 65. An instructor met with Ms. B. before her visits and observed and coached her during the visits. CP 152. Though the program usually consisted of 10 sessions, Ms. B received 18 sessions. RP 196-97. Ms. B. was unable to apply the skills she learned. RP 199-200.

In the October 2016 dependency review hearing orders, Ms. B. again agreed that the Department had complied with the prior court orders. Exs. 46-49, ¶¶ 1.3, 2.13. The orders identified the remaining services for Ms. B. as including continuing participation in Triple P and individual therapy. *Id.*, ¶ 3.9. The orders also determined that the Department should file petitions to terminate Ms. B.’s parental rights. Exs. 46-49, ¶ 2.7.

Following Dr. Shepel's November 2016 neuropsychological report, Ms. B. received additional services. In December 2016, Ms. B.'s counselor incorporated the report's recommendations and referred Ms. B. for a psychiatric evaluation. Ex. 87, p. 4.

The Department also sought out dialectical behavioral therapy (DBT) for Ms. B. RP 599, 671-72, 693. DBT was recommended to address Ms. B.'s procrastination, avoidant behaviors, and refusal to accept responsibility. Ex. 78, pp. 16-17. Ms. B.'s social worker contacted multiple providers in the area and learned that they did not currently have staff who could provide DBT. RP 672. Ms. B.'s social worker arranged for her to receive DBT as soon as it became available, RP 693-94, and Ms. B. began participating in February 2018, RP 598, 693-94.

In December 2017, the Department referred Ms. B. to one-on-one parent coaching, which she participated in through the end of February 2018. RP 247, 249-50.

#### **D. The Juvenile Court Terminated Ms. B.'s Parental Rights**

The trial on the Department's petition to terminate Ms. B.'s parental rights occurred in March and April of 2018. CP 149, ¶ 1.1. The court issued its orders on July 27, 2018. *Id.*

The court heard extensive testimony that, despite Ms. B.'s participation in services, her progress was insufficient to return the children to her in the near future. At the time of trial, Ms. B.'s visits were limited to two children at a time in a visitation facility, where staff took special precautions. CP 181, ¶ 3.5.10; RP 33-35. The supervised visits remained

chaotic, and Ms. B. still sometimes relied on assistance from visitation supervisors. CP 181, ¶¶ 3.4.23, 3.5.8, 3.5.11, 3.5.15, 3.5.18. There were still safety concerns, such as Ms. B.’s inability to supervise S.T., who is at heightened risk of exploitation, or to manage T.L.’s attempts to run away. CP 182, ¶ 3.5.15; RP 306-07, 340, 771-74.

The parenting coach who had most recently worked with Ms. B. testified that in the best case scenario, it would take Ms. B. “two, three months” to have even *unsupervised visitation* with her children. RP 264. In the best case scenario, it would take one year before the children could be returned home. RP 271-72, 300; *see also* CP 182, ¶ 3.5.17. These best case scenarios were far beyond the guardian ad litem’s description of the “near future” for the children. RP 778.

The juvenile court entered orders terminating Ms. B.’s parental rights to all four children in late July 2018. CP 149. The juvenile court found that Ms. B. made little progress in safely parenting her children, even after starting medication. CP 181-82, ¶¶ 3.5.8, 3.5.11, 3.5.18; *see also* RP 70, 260-62, 297-98. The improvement that did occur was largely a result of modifying her visitation so that she saw only two children at a time. CP 182, ¶ 3.5.13; *see also* RP 23, 70, 257, 268, 294-95, 298, 470, 770.

By the time of the orders, the three oldest children had been in out-of-home care for over three years. *See* CP 178, ¶ 3.3. L.L. had been in out-of-home care her entire life. *See* CP (L.L.) 177, ¶ 3.3. The court of appeals commissioner affirmed the orders, and a panel denied Ms. B.’s motion to modify that decision.

#### IV. ARGUMENT

This Court should affirm the orders terminating Ms. B.’s parental rights. Ms. B. does not challenge—and it is therefore a verity in this Court—that she is “currently unfit to parent any of the children,” that “[t]here is little likelihood that conditions will be remedied so that the children can be returned to [her] care in the near future,” and that termination of her parental rights “is in the best interest” of each child. CP 180, 182-83, ¶¶ 3.5, 3.7, 3.8; *see also* RAP 13.7(b) (“[T]he Supreme Court will review only the questions raised in the motion for discretionary review . . .”).

Instead, Ms. B. raises three specific arguments about the services that she was offered and provided. Each argument lacks merit. Ms. B.’s challenge to the timing of the neuropsychological evaluation fails because she was offered and provided an evaluation, which is all the statute requires. Ms. B.’s argument related to the provision of DBT is flawed for multiple reasons, but the most obvious is that her premise—that DBT was a court-ordered service—is clearly incorrect. Finally, contrary to her contention, Ms. B was offered and provided services that were appropriately tailored.

##### A. Overview of the Requirement to Provide Remedial Services

Termination of a parent’s rights involves competing interests of the highest order: a parent’s “fundamental liberty interest in the custody and care of their children” and “the child’s right to a safe and healthy environment,” *In re Dependency of K.D.S.*, 176 Wn.2d 644, 652, 294 P.3d 695 (2013). In RCW 13.34, the Legislature has carefully balanced those interests. *Id.*

To terminate parental rights, the Department generally must prove the six elements set out in RCW 13.34.180(1). RCW 13.34.190(1)(a)(i). The only element at issue in this case is RCW 13.34.180(1)(d), which requires that the Department prove:

That the services ordered under RCW 13.34.136 have been expressly and understandably offered or provided and all necessary services, reasonably available, capable of correcting the parental deficiencies within the foreseeable future have been expressly and understandably offered or provided.

The use of the passive voice is significant; the juvenile court may consider “any service received, from whatever source.” *In re Dependency of D.A.*, 124 Wn. App. 644, 651, 102 P.3d 847 (2004).

**B. Ms. B. Received a Neuropsychological Evaluation More Than 15 Months Before Trial**

With respect to the neuropsychological evaluation, the Department satisfied RCW 13.34.180(1)(d). The Department provided three referrals, Exs. 62-64, and Ms. B. eventually took advantage of the third one. Exs. 46-49, ¶ 3.9. Dr. Shepel issued her report in November 2016, and Ms. B. then had over 15 months to engage in all available services. Ex. 78; CP 177. In short, Ms. B. was undeniably “offered or provided” the court-ordered neuropsychological evaluation. RCW 13.34.180(1)(d).

Because she cannot deny that a neuropsychological evaluation was “offered or provided,” *id.*, Ms. B. seeks to add an extra-statutory requirement that the Department prove that services were offered “in a timely manner.” Mot. for Discr. Rev. at 1, 8. But the statutory scheme

ensures timeliness through regular review in the dependency proceedings, RCW 13.34.138(1), not by postponing permanency for children where services are incapable of correcting parental deficiencies in the near future. This Court should reject Ms. B.’s invitation to re-write the statute and re-balance the competing interests of parents and dependent children.

The plain meaning of RCW 13.34.180(1)(d) refutes Ms. B.’s interpretation. This Court discerns the plain meaning of a provision from the ordinary meaning of its text and the statutory context. *E.g.*, *State v. James-Buhl*, 190 Wn.2d 470, 474, 415 P.3d 234 (2018). Both cut sharply against Ms. B.’s proposed interpretation.

The ordinary meaning of the language in RCW 13.34.180(1)(d) contains no requirement related to timeliness. It requires that the Department prove that services “have been expressly and understandably offered or provided.” RCW 13.34.180(1)(d). The word “timely” is conspicuously absent. This Court will “not add words where the legislature has chosen not to include them.” *Rest. Dev., Inc. v. Cananwill, Inc.*, 150 Wn.2d 674, 682, 80 P.3d 598 (2003).

The statutory context also counsels against interpreting RCW 13.34.180(1)(d) as requiring the Department to prove the absence of delays. The statutory scheme provides a different mechanism for addressing delays: regular dependency review hearings, held at least every six months. RCW 13.34.138(1). At these hearings, the dependency court must review “[w]hether the department is making reasonable efforts to provide services to the family” and may order additional services. RCW 13.34.138(2)(c)(i).

The cases cited by Ms. B. are consistent with the plain meaning of RCW 13.34.180(1)(d). *See* Mot. for Discr. Rev. at 8 (citing *In re Parental Rights to B.P.*, 186 Wn.2d 292, 376 P.3d 350 (2016); *In re the Termination of S.J.*, 162 Wn. App. 873, 256 P.3d 470 (2011); *In re Dependency of T.L.G.*, 126 Wn. App. 181, 108 P.3d 156 (2005)).

This Court's decision in *B.P.* represents a straightforward application of the requirement that all necessary services be offered or provided. In *B.P.*, the parent never received attachment services. 186 Wn.2d at 319. This Court's decision was not based on a *delay* in providing services; it was based on a *failure* to provide services. *Id.*

Similarly, in *T.L.G.*, the court of appeals reversed an order terminating parental rights because the Department *never* provided mental health services to the parents. 126 Wn. App. at 199-200. The discussion of the delay in providing a psychological evaluation was in response to the Department's attempt to excuse itself from providing mental health services based on the absence of such an evaluation. *Id.* at 199-201, 203.

Likewise, in *S.J.*, the court of appeals reversed an order terminating parental rights where the Department failed to provide attachment services. 162 Wn. App. at 882-84. The *S.J.* court also noted that, for a period of time during the dependency case, the Department had failed to provide mental health services. *Id.* at 877, 881-82. The court of appeals did not, however, hold that this was an independent basis for reversal. *See id.* at 881-82. Even if the *S.J.* court's discussion of the delay were treated as an alternative holding, it is no longer good law in light of this Court's later decision in *In*

*re Matter of K.M.M.*, 186 Wn.2d 466, 484, 379 P.3d 75 (2016). In *S.J.*, the court speculated that conditions “might not have” deteriorated if the service had been provided sooner. 162 Wn. App. at 882. In *K.M.M.*, this Court rejected reliance on speculation about what “might have” happened if services had been provided sooner. 186 Wn.2d at 484.

Ms. B.’s discussion of “harmless error” is misplaced. *See* Mot. for Discr. Rev. at 8, 10. There was no error. The juvenile court correctly found that, as of the time of trial, Ms. B. had been “offered or provided” a neuropsychological evaluation. CP 179, ¶ 3.4.8. Because there was no error, there is nothing to assess for harmlessness.

Importantly, the Department cannot delay providing available services. There are at least four safeguards built into the statutory scheme. First, the dependency court reviews the provision of services at least every six months. *See* RCW 13.34.138(1). Here, Ms. B. consistently *agreed* that the Department had complied with the dependency court’s orders. Exs. 39-42, ¶¶ 1.3, 2.13 (April 2016); Exs. 46-49, ¶¶ 1.3, 2.13 (October 2016). Second, if there is a likelihood that a late-provided service will remedy parental deficiencies in the near future, parental rights cannot be terminated. RCW 13.34.180(1)(e). Third, if a late-provided service reveals that another available service, capable of correcting a parental deficiency in the foreseeable future, has not been provided, then parental rights cannot be terminated. RCW 13.34.180(1)(d). Fourth, even if the elements of RCW 13.34.180(1) are proved, parental rights cannot be terminated if it is in the child’s best interest to allow the parent additional time to participate

in services. RCW 13.34.190(1)(b). Additionally, a parent can request a continuance of a termination trial to take advantage of additional services.

Even if timeliness of the provision of a service *were* an element, Ms. B. was timely offered and provided a neuropsychological evaluation. Even counting from the date of the report, Ms. B. had over 15 months to take advantage of the recommendations that were available. CP 177, 179.

In sum, the Department proved that Ms. B. was “offered or provided” a neuropsychological evaluation. Ms. B.’s argument to the contrary is based on a misreading of RCW 13.34.180(1)(d).

**C. The Department Fulfilled its Responsibility to Offer DBT**

The Department fulfilled its responsibility to offer dialectical behavioral therapy (DBT) to Ms. B. Ms. B. offers a nuanced argument to the contrary. She contends that DBT was a court-ordered service. From that premise, she argues that the unavailability of DBT requires reversal because, under her reading of RCW 13.34.180(1)(d), if the dependency court orders a service that is unavailable, termination is impossible, regardless of how long that will extend a child’s stay in out-of-home care.

Ms. B.’s argument fails for three independent reasons. First, even under the test she proposes, DBT was never a court-ordered service. Second, Ms. B.’s proposed test is not compelled by the statutory text and would lead to absurd results. Third, even if DBT was a court-ordered service and had to be provided regardless of availability, Ms. B. was offered and provided that service.

### **1. DBT was never a court-ordered service**

Ms. B’s argument is built on a faulty premise. DBT was never a court-ordered service. In an October 2015 dependency review hearing order, the dependency court required that Ms. B. “engage in [a] neuropsychological evaluation & follow recommendations.” Exs. 34-37, ¶ 3.11 (emphasis added). In April 2016—before the neuropsychological report recommended DBT—the dependency court removed the “& follow recommendations” language. Exs. 39-42, ¶ 3.9. The dependency court’s later orders also omitted the “& follow recommendations” language, and no order specifically required DBT. Exs. 46-49, ¶ 3.9 (October 2016); Exs. 50-53, ¶ 3.9 (April 2017); Exs. 124-27, ¶ 3.9 (October 2017).

The neuropsychological evaluation made recommendations—including DBT—in November 2016. By then, the court-ordered services neither specifically included DBT nor included the more general “& follow recommendations” language on which Ms. B. relies. *See* Mot. for Discr. Rev. at 13. Because DBT was not court-ordered, the mother’s argument regarding court-ordered services is not relevant.<sup>2</sup> This is dispositive of Ms. B.’s argument related to DBT.

### **2. Unavailability of a service is not a basis for reversal**

Though Ms. B.’s argument fails because DBT was not a court-ordered service, the Department requests that this Court also explicitly

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<sup>2</sup> Initially, DBT was not reasonably available, as Ms. B. acknowledged at trial. RP 598-99, 671-73.

reject Ms. B.’s argument that RCW 13.34.180(1)(d) prohibits juvenile courts from terminating parental rights when a service is unavailable.

Ms. B.’s interpretation of RCW 13.34.180(1)(d) is not compelled by the text because a service that is not reasonably available cannot be a “service[] ordered under RCW 13.34.136.”<sup>3</sup> RCW 13.34.180(1)(d). Services under RCW 13.34.136 are limited to those “that are available within the department, or within the community, or those services which the department has existing contracts to purchase.” RCW 13.34.136(2)(b)(vii). An unavailable service identified in a court order cannot be a “service[] ordered under RCW 13.34.136” because those services, by definition, must be available.

Ms. B.’s interpretation would lead to absurd results. “[T]his court will avoid an absurd result even if it must disregard *unambiguous* statutory language to do so.” *In the Matter of Dependency of D.L.B.*, 186 Wn.2d 103, 119, 376 P.3d 1099 (2016). Ms. B.’s interpretation would lead to absurd results in two respects.

First, Ms. B.’s interpretation would harm parents in dependency proceedings by interfering with their access to services. Ms. B. suggests that if a court-ordered service is unavailable, a court cannot terminate parental rights unless the Department obtains an amendment to the service plan to remove the unavailable service. Mot. for Discr. Rev. at 11. But retaining the unavailable service in the court order ensures that parents will receive the

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<sup>3</sup> The Department does not abandon its argument related to the last antecedent rule. Answ. to Mother’s Mot. to Modify Ruling, pp. 14-16.

service if it becomes available. It does so in at least two ways. First, it ensures that the dependency court will review the availability at least every six months. *See* RCW 13.34.138(1). Second, particularly for incarcerated parents, the presence of a court order may give the parent priority in obtaining the service. *See* RCW 13.34.025(2). Ms. B.’s proposed solution of removing unavailable services from court orders would thereby interfere with the ability of other parents to obtain services.

Second, Ms. B.’s interpretation would senselessly delay permanency for dependent children. The Legislature and this Court have recognized the importance of promptly achieving permanency for children. *E.g.*, RCW 13.34.020, .136(3); RAP 18.13A. Delaying permanency based on an overly-rigid reading of RCW 13.34.180(1)(d) would interfere with this critical objective. Under Ms. B.’s interpretation, appellate courts should reverse termination orders—months or years after entry—where parents are not provided with an unavailable service. This would deny children permanency for that period *and* the additional period needed to conduct a new termination trial and go through the appellate review process. And this would delay permanency to children without a corresponding benefit to parents; if the service is not reasonably available, there is no purpose in delaying termination of parental rights.

### **3. Ms. B. was offered and provided DBT**

Ms. B.’s argument is also incorrect for a third reason. She does not dispute that, as of the date of the termination orders, she had been offered *and* provided DBT. CP 180, ¶ 3.4.23; RP 598. Even if DBT had been a

“service[] ordered under RCW 13.34.136,” the Department’s burden was to prove that it was “offered or provided.” RCW 13.34.180(1)(d). By the date of her testimony, the mother had been provided DBT for approximately two months.<sup>4</sup> RP 598. The issue at trial became whether, having received this service, there was any likelihood that “conditions will be remedied so that the child can be returned to the parent in the near future” and whether termination is in the children’s best interests. RCW 13.34.180(1)(e); RCW 13.34.190(1)(b). The trial court’s unchallenged findings on these issues are verities on appeal. CP 180, 182 ¶¶ 3.5, 3.7.

**D. Ms. B.’s Parenting Classes Were Appropriately Tailored**

Ms. B. received services that were tailored to her individual needs. The requirement that the Department tailor services consists of two components: (1) “offer[ing] or provid[ing]” *each* service that a parent needs and (2) offering services “understandably,” which, for parents who are cognitively unable to understand services, may require accommodations. Ms. B. was understandably offered or provided all services.

The first component of the tailoring requirement is that a parent must be offered or provided *each* service that the parent needs. Ms. B. does not identify any additional service that should have been provided. That distinguishes this case from cases like *S.J.*, in which services were not tailored to the parent because, during the relevant period, the Department

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<sup>4</sup> Notably, although represented by counsel, Ms. B. neither moved to continue the trial date to participate in additional DBT sessions nor did she request additional testimony about her progress in the three months between her testimony and entry of the orders.

failed to offer mental health services. 162 Wn. App. at 882. Similarly, in *In re Welfare of H.W.*, 92 Wn. App. 420, 428-29, 961 P.2d 963 (1998), services were not tailored to a developmentally disabled parent because she “was never offered any” developmental disability services.

The second component of the tailoring requirement is that services must be offered “understandably.” If a parent has a profound disability that makes them unable to understand a service, they may need accommodations in their services. See *In re Parental Rights to I.M.-M.*, 196 Wn. App. 914, 922, 385 P.3d 268 (2016). For example, in *I.M.-M.*, the parent was “significantly cognitively impaired” with an IQ “lower than 91 percent of individuals her age.” *Id.* at 918. Because the Department did not fully investigate or accommodate the parent’s significant intellectual deficits, *I.M.-M.* court concluded that services were not tailored. *Id.* at 922-24.

The record here establishes that the Department fully investigated Ms. B.’s mental health. See Exs. 77-78. Ms. B. had the cognitive ability to understand the parental education services that were offered to her. The neuropsychological evaluation specifically stated that “cognitively Ms. B[.] is capable of learning and understanding of the developmental needs and her children’s difficulties.” Ex. 78, p. 16; see also RP 86, 116, 149, 212-14, 412, 460 (testimony about Ms. B.’s ability to understand material). The concern identified in the neuropsychological evaluation was that “she may not be able to actually apply her knowledge in real life situations.” *Id.* This concern was addressed through integrated services, including a psychiatric evaluation and medication. Ex. 87, p. 4; RP 591-92, 627-28. While Ms. B.

had a learning disorder related to math, Ex. 78, pp. 15, 17, she does not argue that this prevented her from understanding parenting education.

Insofar as any accommodation was required for Ms. B., she received it. Dr. Shepel identified repetition, individual assistance, and role modeling as useful strategies for Ms. B. Ex. 78, pp. 14, 17; RP 149. Triple P was modified by repeating sessions and providing Ms. B. with 18 sessions instead of the usual 10. RP 196-98. Triple P and Family Preservation Services were one-on-one individualized programs that addressed specific issues that arose at Ms. B's visitations. RP 198-99, 205-06, 248-52. The Family Preservation Services coach repeatedly modeled behavior for Ms. B. RP 260-61. Unlike in *I.M.-M.*, nothing in the record suggests that Ms. B. was incapable of understanding the parenting services.

## V. CONCLUSION

The State respectfully requests that the Court affirm the Court of Appeals decision and allow the four children to pursue permanency.

RESPECTFULLY SUBMITTED this 6th day of January 2020.

ROBERT W. FERGUSON  
*Attorney General*

KARL D. SMITH  
*Deputy Solicitor General*

AMY HARRIS  
*Assistant Attorney General*

Office ID 91087  
PO Box 40100  
Olympia, WA 98504-0100  
360-753-7085  
Karl.Smith@atg.wa.gov

### **Certificate of Service**

I certify, under penalty of perjury under the laws of the State of Washington, that the foregoing was electronically filed in the Washington State Supreme Court and electronically served on the following parties, according to the Court's protocols for electronic filing and service:

Stephanie Alice Taplin  
623 Dwight St.  
Port Orchard, WA 98366  
*stephanie@newbrylaw.com*

DATED this 6th day of January 2020, at Olympia, Washington.

*s/Leena Vanderwood*  
LEENA VANDERWOOD  
*Legal Assistant*

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