

# Washington State Judicial Branch 2015-2017 BIENNIAL BUDGET REQUEST

## Decision Package

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<b>Agency</b>	Office of Public Defense
<b>Decision Package Title</b>	Parents Representation Program Statewide Expansion
<b>Budget Period</b>	2015-2017 Biennial Budget
<b>Budget Level</b>	Policy Level

### **Agency Recommendation Summary Text**

Funds are requested to expand the Parents Representation Program, which provides adequate legal representation for indigent parents involved in dependency and termination cases, to all juvenile courts statewide. The OPD Advisory Committee at its June meeting strongly encouraged OPD to pursue a final expansion to the eight counties not currently served by the Program.

### **Fiscal Detail**

<b>Operating Expenditures</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>Total</b>
<b>011-1 General Fund State</b>	\$ 2,490,000	\$2,490,000	\$ 4,980,000
<b>Staffing</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>Total</b>
<b>FTEs (number of staff requested)</b>	1	1	1

### **Package Description**

#### Program Background:

In 1999, the Legislature directed the Washington State Office of Public Defense (OPD) to report on inequalities in attorney funding in dependency and termination cases. OPD conducted an investigation of Washington's juvenile courts, finding severe disparities between state funding for the Attorney General's Office (AGO) for the initiation and processing of these cases compared to the funds provided by counties for legal representation of the indigent parents involved.

In 2000, the Legislature appropriated funds to OPD to create an enhanced parent representation pilot program in the Benton-Franklin and Pierce County juvenile courts. Due to its success, the pilot program was continued until 2005. During the pilot, four independent evaluations verified the program's success in improving parents' representation. In addition, the evaluations showed that the outcomes for children and their families greatly improved, as parents were better able to address their parenting deficiencies.

This innovative program has been praised in national publications, including the Juvenile and Family Court Journal, the American Bar Association's Children and the Law newsletter Courtworks, and the National Council on Juvenile and Family Court Judges website, which publishes their evaluation of the program as a Technical Assistance Brief model for other states. The program's outstanding results shown by evaluation as promoting earlier permanency for children was published in 2011 in the Children and Youth Services Review in 2012. Washington is a founding member of the American Bar Association's new parents' representation section.

#### The Need:

Funds are requested to implement the Parents Representation Program (PRP) in the eight counties currently lacking the Program. The Program would be expanded to counties in which indigent parents in dependency and termination cases are in emergent need of adequate attorney representation. About 15 percent of Washington state children and their indigent parents who are involved in dependencies and terminations still suffer emergent need for this Program. These cases not infrequently result in the permanent severance of their relationship to each other for all purposes.

Indigent parents in the 15 percent of the state without the Program are represented by county-funded attorneys, who practice under widely disparate contract terms and conditions, depending on the county. These attorneys often are burdened with excessive caseloads and practice without the benefit of professional oversight, independent social worker or investigator resources, or specialized dependency/termination training.

#### The Solution:

Indigent parents in dependency and termination cases are guaranteed the right to counsel, and the U.S. Supreme Court has declared that the quality of legal representation provided by government must be of adequate quality. In 2005, the Legislature declared "the legislature recognizes the state's obligation to provide adequate representation...to parents in dependency and termination cases." SB 5454. Since then, the Legislature has authorized the expansion of the Parents Representation Program in stages, several counties at a time. The program is now implemented in 85 percent of the state. Several independent evaluations of the Parents Representation Program have shown that parents who are afforded the Program are substantially more likely to succeed in their cases, thus restoring their families, meeting the intent of our child welfare laws, and avoiding state-funded foster care and adoption subsidy costs totaling millions of dollars each year. This request would expand the Program to the remainder of the counties and would provide indigent parents in Adams, Douglas, Island, Lewis, Lincoln, Okanogan, and Walla Walla counties, and the currently unserved half of indigent parents in Pierce County with access to representation by PRP attorneys, just like similarly situated indigent parents in the other 31 counties.

#### Comparison to Existing Funding and Performance:

Without the requested funding and statewide expansion of the Parents Representation Program, the state would spend less on representing indigent parents but, based on Program evaluations that show improved family reunification and earlier permanency, the state likely would spend significantly more on foster care and adoption subsidies. Without funding to expand the state Program, attorneys in these eight counties likely will continue to lack caseload controls, professional oversight, readily available social worker and investigator services, and crucial training.

### **Narrative Justification and Impact Statement**

This package contributes to the Judicial Branch Principle Policy Objectives as identified below.

#### **Fair and Effective Administration of Justice in All Civil and Criminal Cases.**

*Washington courts will openly, fairly, efficiently and effectively administer justice in all criminal and civil cases, consistent with constitutional mandates and the judiciary's duty to maintain the highest level of public trust and confidence in the courts.*

In 2005, the Legislature declared "the legislature recognizes the state's obligation to provide adequate representation...to parents in dependency and termination cases." SB 5454. Since then, the Legislature has authorized the expansion of the PRP in stages, several counties at a time. The program is now implemented in 85 percent of the state. This request seeks funding for the remainder of the counties. At present, indigent parents in Adams, Douglas, Island, Lewis, Lincoln, Okanogan, and Walla Walla counties, and half the indigent parents in Pierce County do not have access to representation by PRP attorneys while all similarly situated indigent parents in the other 31 counties receive PRP services.

OPD's enabling statute, RCW 2.70, establishes that the agency shall "administer all state-funded services ... (for) representation of indigent parents qualified for appointed counsel in dependency and termination cases, as provided in RCW 13.34.090 and 13.34.092

Expanding the Parents Representation Program will ensure program oversight and quality controls to provide a consistent level of service to parents involved in dependency/termination cases statewide.

**Access to Necessary Representation.** *Constitutional and statutory guarantees of the right to counsel shall be effectively implemented. Litigants with important interest at stake in civil judicial proceedings should have meaningful access to counsel.*

Funding this request will ensure that indigent parents in all Washington counties can receive appointment of well-qualified Parents Representation Program attorneys, all of whom receive specialized training, access to social worker and investigator resources, professional oversight, reasonable caseloads, and adequate compensation.

**Appropriate Staffing and Support.** *Washington courts will be appropriately staffed and effectively managed, and court personnel, court managers and court systems will be effectively supported.*

This request includes 1 FTE for a Parents Representation Program Managing Attorney at OPD.

### **Measure Detail**

## **Impact on clients and service**

Implementation of this program to all Washington counties will help meet the state's legal mandates, both constitutional and statutory, to ensure that effective counsel is appointed for indigent parents in dependency and termination cases. Program attorneys will have reasonable caseloads, enabling them to meet regularly and communicate with clients, ensure that parents have access to services designed to correct parental deficiencies, prevent court delays due to scheduling conflicts, and conduct high-quality case preparation, including access to experts and evaluators, timely discovery and case investigation, and participation in settlement negotiations when appropriate. The courts will be able to more effectively hold parents accountable for participating actively in services and the cases because their attorneys ensure that they have timely and clear opportunities to do so. Program attorneys will hold all parties accountable for providing services that have been ordered by the court for parents.

## **Impact on other state services**

Independent evaluations of the Parents Representation Program show that court efficiency is increased as continuances due to overscheduled attorneys are reduced. This increases the efficient use of judicial resources and leads to more high-quality, timely decisions regarding children's permanency.

Judicial officers in PRP counties rate program services favorably. In a 2007 survey judicial officers in the PR P counties rated the Program's quality of representation at 4.2 on a 5 point scale.

A number of evaluations have found the Program increases family reunification rates. As a result, for each year the Program operates in a county, the cumulative alternate care savings increase. As the PRP has expanded into additional counties over the years, foster care and caseload reductions generated by the Program continue to be substantial.

On a case-by-case basis, social workers and services providers will consistently be made more accountable because individual PRP attorneys work with them to ensure that they provide services that have been ordered by the court and, if necessary, enforce services orders in court. This improves Washington's ability to fulfill mandatory federal review requirements.

## **Relationship to Capital Budget**

N/A

## **Required changes to existing Court Rule, Court Order, RCW, WAC, contract, or plan**

N/A

## **Alternatives explored**

The right to counsel for indigent parents is constitutionally or statutorily required. The alternative to providing these mandatory services by expanding the Parents Representation Program to the remaining eight counties is to maintain the status quo and allow for inconsistent (and in many cases inadequate) quality of representation from one county to the next.

## **Distinction between one-time and ongoing costs and budget impacts in future biennia**

Funding for Parents Representation Program expansion would be an ongoing cost.

**Effects of non-funding**

Without funding to expand the Parents Representation Program, indigent parents in 15 percent of the counties will continue to receive an inconsistent and often inadequate quality of representation in dependency and termination proceedings, in violation of legal mandates. Dependent children in these areas will spend greater periods of time in foster care at substantial cost to the state. The court system in these counties will continue to struggle with delays and continuances caused by attorneys with high caseloads. The system's failure to provide for checks and balances in the counties without the PRP will continue to harm families, negatively impacting children's well-being.

**Expenditure calculations and assumptions and FTE assumptions**

The budget request seeks funding for about 1,408 parents' representations in the targeted counties. About 18 contract attorneys will be compensated at a rate of \$107,100- \$122,400 depending on experience level and the local cost of doing business, for full-time caseloads of 80 open cases. Compensation includes the attorney's salary, office rent, secretarial staff, Professional dues and licensing, and overhead. 4.12 social workers at \$55,000 annually are also included, as well as expert costs at \$2,500 per attorney annually. OPD would add another program manager at \$110,000 for salary and benefits.

<b>Object Detail</b>	<b>FY 2016</b>	<b>FY 2017</b>	<b>Total</b>
Staff Costs	\$ 110,000	\$ 110,000	\$ 220,000
Non-Staff Costs	\$ 238,000	\$ 238,000	\$ 476,000
<b>Total Objects</b>	<b>\$ 2,490,000</b>	<b>\$ 2,490,000</b>	<b>\$4,980,000</b>