

# Is Washington state taking too many children from their parents? Movement seeks to overhaul foster care

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By [Nina Shapiro](#)

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Esther Taylor remembers everyone tensing up. She was 8, and didn't understand everything going on. But she knew a social worker had confronted her mom about the way Taylor and her siblings were living, in a house with faulty wiring and a rat problem, ostensibly home-schooled but not taught frequently or late. And she could see her mom getting upset.

Then, confusion as what she thought would be a routine errand at a state office turned into an all-day affair. *Why are we still here?*

Eventually, Taylor, a sister and a brother were led to a supply of clothes, where she picked out a Lilo & Stitch jacket and other items. They would not be going home, not even to grab pajamas.

Now 22 and a college student in Walla Walla, Taylor said she wishes state workers had asked how to help instead of sending her and her sister to one foster home, her brother to another. She is still haunted by the two-and-a-half-year separation from her mom, whom she remembers as kind and funny, and who died of cancer seven years ago.

Taylor said she struggles with abandonment issues and sometimes wonders: "Am I not worthy to have a mother?"



*Esther Taylor was taken from her mom, shown in the photo she is holding, and placed in foster care for 2 1/2 years when she was 8. Now 22 and in college, Taylor calls*

*herself a “mama’s girl,” and said she never wanted to be cared for by anyone else. She lost her mom seven years ago to cancer. (Ellen M. Banner / The Seattle Times)*

Foster-care systems are supposed to keep children safe, removing them from the kind of abuse and neglect that [killed 1,840 kids](#) around the country in fiscal 2019. Child-welfare agencies are routinely excoriated when they ignore red flags and don’t move quickly enough.

But a national movement is increasingly calling attention to a different and possibly more pervasive harm that comes from breaking up families. Even agencies overseeing foster care are recognizing that separating children from their parents may be unnecessary in many cases to resolve problems often linked to poverty, while causing lasting trauma and disproportionately affecting people of color.

Many are now asking, “How do we shift resources to support families as opposed to using those resources to invest in foster care?” said Vivek Sankaran, a University of Michigan law professor who directs clinics dealing with child welfare.

Or, as Shrounda Selivanoff, public policy director for the Children’s Home Society of Washington, puts it: “Instead of just saying ‘we’re saving children,’ we should be saving parents for their children.”

Selivanoff is part of a local group advocating for a state [bill](#), passed by the House in early March, that would tighten the criteria for taking a child from a home at the first stages of a case before a full fact-finding hearing before a judge. While parents can get their children back, Selivanoff said, “once you’re in child welfare, it’s a beast to get yourself out of it.”

She knows because she had a daughter removed during a time she was addicted to drugs. “I had just given birth alone,” Selivanoff recalled. Social workers came in to her hospital room, asking a lot of questions. Her daughter, she was soon told, wouldn’t be leaving the hospital with her.

“It was devastating,” Selivanoff said.

She reunited with her daughter two-and-a-half years later, after undergoing treatment. Her daughter is now 14. But, she wonders, could the state have helped her get into a treatment center that allowed her to keep her baby with her? “That was never the discussion,” she said.

Some are trying to make it so, including a recently founded Snohomish County program that finds beds at such treatment centers. That allowed Heather Smith, of Kirkland, to stay with her newborn daughter and eventually win back two older children.



*Heather Smith plays with her youngest daughter after her older children have boarded their school bus. Losing kids to foster care, Smith said, “is the scariest thing that could ever happen to you.” (Ellen M. Banner / The Seattle Times)*

Losing kids to foster care, Smith said, “is the scariest thing that could ever happen to you. The hardest thing is knowing you screwed everything up so much and don’t even know where to fix it.”

The Department of Children, Youth, and Families (DCYF) connects many families with drug treatment, parenting education and other services through a [diversion program](#). But agency Secretary Ross Hunter said uneven distribution of services throughout the state impedes the work, and he wants to get more help for families in danger of being broken up.

Washington, he noted, was one of the first states to come up with a federally-approved plan to use child-welfare funding for preventative work, something [only allowed since 2019](#).

“Our goal is getting to about half as many kids in out-of-home care as today,” Hunter said, referring to a system that currently holds about 7,400 children, down from 9,100 in 2017.

He stressed he doesn’t want to eliminate foster care. “There are cases of just horrific physical and sexual abuse.” But that’s not the vast majority, he said, noting two-thirds of cases allege neglect.

That’s something often influenced by lack of access to adequate housing, babysitters and day care, mental health counseling and drug treatment.

“Poverty is the greatest predictor of whether you’re going to have a dependency case,” said Tara Urs, special counsel for civil police and practice at the King County Department of Public Defense. Of 962 cases filed in the county during 2019 and 2020 seeking to make a child a dependent of the state and possibly a placement in foster

care, just five families were not entitled to a public defender because of indigency, according to her department's records.

"A lot of what you can hear in dependency cases ... are subjective views about what is good parenting," Urs said. "So for example, you'll hear evidence that a young child, like a 10- or 11-year-old, is being 'parentified,' in other words, is given too much responsibility in the home — and that's a basis for removal, maybe not the only basis but one basis."

Race is another predictor. Black, Native American and multiracial people make up 11% of the state's population, yet 32% of the roughly [3,200 dependency cases](#) filed in 2020.

Hunter pointed out there's a racial lopsidedness to the torrent of calls — more than 125,000 a year before dipping during the pandemic — that come from mandatory reporters, such as doctors and teachers, and the public. Most are either not credible or not pertaining to actual abuse or neglect.

"I don't know if I can fix that ... You have to fix racism in America," he said.

But Hunter said the agency has been discussing ways to stave off bias from removal decisions, perhaps by having more people weigh in, and stripping a family's file of subtle racial cues, like names and neighborhoods.

House Bill 1227 takes another tack, weighing into a complicated balance of competing risks: Will a child be more harmed by staying home or leaving? How do you know?

The original version sought to raise the standard of evidence a court requires of DCYF to issue an removal order, from "reasonable grounds" to "preponderance of the evidence."

That's still lower than the "[clear, cogent and convincing evidence](#)" standard used when the matter is considered again if a child is found to be a dependent of the state at a fact-finding hearing. Such a hearing must be held no more than 75 days after a case begins. But Rep. Lillian Ortiz-Self, a Mukilteo Democrat who sponsored the bill, said some legislators worried the initial bar would be too high, endangering kids.

A second version keeps the reasonable grounds standard but changes what the state has to show, from a "serious threat of substantial harm" to "imminent physical harm."

"Although it might seem like just a small semantic difference, I think it would have an important impact," Urs said. "The current statute says, look as far into the future as you want and consider any possible harm to the child." The words "imminent" and "physical," she said, "would narrow the focus to this immediate situation."

The bill also specifies that certain conditions in the home — including poverty, inadequate housing, a parent’s mental illness and substance use — cannot by themselves be grounds for removal; there must be a threat to a child.

Kennewick Republican Rep. Brad Klippert argued some of these circumstances alone should be enough to remove a child. Take inadequate housing. A school resource officer, he cited the time he found a family with five children living in a trailer with no roof. Another time, he said, he found two kids in a dilapidated house with no running water.

Paradoxically, Klippert said he got help for those families by finding a housing program in one case, a pro bono plumber in another, rather than trying to have the children taken away.

That hasn’t always been the case, though, he said. “It’s a case-by-case basis,” he said. “Trust the people who have boots on the ground.”

The retinkered bill, which DCYF estimates will result in about 240 fewer removals a year, has nevertheless found broad support.

“I’m actually kind of excited about it,” Hunter said, adding it would prompt the agency to do a more thoughtful assessment, asking not only “is this kid safe?” but “can we make the kid safe at home?”

The bill doesn’t directly provide funding to make that happen — an important additional step, many contend. Without support, said Rachel Sottile, president and CEO of the Center for Children & Youth Justice, “it is likely we will see the family again because their underlying issues have not been met.”

Hunter said he believes the bill will indirectly increase funding as DCYF’s caseload for preventative services goes up.

He also said he expects money given directly to parents through the just-passed federal [stimulus package](#) will help. “We believe it will reduce child poverty in America and most likely in Washington state as well by half,” Hunter said.

Meanwhile, some Snohomish County lawyers are chipping away at the problem another way. A couple of years ago, they started the [Family Intervention Response to Stop Trauma Clinic](#), which operates as a kind of emergency response system for parents at risk of losing their kids.

Low-income parents are entitled to a public defender beginning at the hearing held 72 hours after a removal. By then, though, “it’s too late,” said Adam Ballout of the ABC Law Group. Once children are taken away, there are a lot of bureaucratic and legal hurdles to getting them back.

If they could just get involved a little earlier, Ballout and his colleagues felt, they could avoid a dependency case altogether.

That usually means rushing to a hospital room, or calling over Zoom, because their focus is largely mothers who have just given birth, most with substance addictions, triggering a hospital call to DCYF.

The lawyers aim to get there within 30 minutes, advising a mom of her rights. Then, they get a “parent ally” and social service worker, Gina WasseMiller, on the case. Often in a matter of hours, she rounds up services — most crucially, a bed at a treatment facility that accepts mothers and babies — that a mom can use to show removal is unnecessary.

She and the lawyers want to get everything lined up before DCYF holds a crucial decision-making meeting with parents and family members.

Having the F.I.R.S.T. Clinic involved made all the difference at one such meeting a year ago, said Smith, the Kirkland mother who struggled with a drug addiction for years and had already lost two children to foster care when she gave birth to a third.

At previous meetings, said the 34-year-old, state workers advised her to get treatment but didn’t tell her how or where. “Not even a brochure.” They also grilled her and made her feel like a terrible person, she said.

This time around, Smith said, DCYF staff were open-minded and respectful. The F.I.R.S.T Clinic presented a plan for her and her newborn daughter to go to a six-month treatment center in Everett. The state agreed.

When she got out, she moved into a Kirkland apartment using a federal housing voucher for families who have been through the child-welfare system, pursued on the advice of WasseMiller. In November, Smith’s two older children, 4 and 3, moved out of foster care and in with her.

“They’re doing so good,” Smith said, taking pride in a report written by a court-appointed advocate for the preschoolers. Smith read a passage that described them as happy and talkative, their speech improved. They “go to their mother for hugs and kisses for no other reason than to just be in her arms.”



*Heather Smith sees her two older children off to school from their Kirkland apartment. After her youngest child was born, a Snohomish County agency found a way for Smith to take her newborn with her into a drug treatment facility. Her two preschoolers later left foster care and returned to Smith. (Ellen M. Banner / The Seattle Times)*