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A Professional Service Corporation

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April 28, 2025

Washington State Supreme Court
Temple of Justice
415 12th Ave SW
Olympia, WA 98501

Re: Proposed Revisions to CrR 3.1, CrRLJ 3.1, and JuCR9.2

Dear Honorable Justices of the Washington State Supreme Court,

The parent entering the court room for his or her very first dependency hearing where the state is seeking an emergency removal of their children from that parent's care and custody must have an attorney who is knowledgeable of the law, who has reviewed the allegations and surrounding discovery, talked to potential witnesses for the parent, and is experienced in examining the state's witnesses that will testify. The child's attorney must be similarly prepared. Only then can the court be assured it has all the information to make a sound decision, and the family feel a fair and equal hearing was held. At each subsequent stage of the proceedings an equally competent and knowledgeable attorney is required.

As a family defender with eighteen years of experience representing parents, children, and families in Washington's dependency and family law system, I write to voice my support for the proposed court rules change to reduce caseloads for family defenders. This reform is essential to uphold the constitutional rights of parents, youth, and families, address unsustainable workloads, stem the worsening tide of attorney attrition, and establish an ethical framework for training new lawyers in this critical field. I urge you to adopt these standards, not only for the sake of those of us on the front lines but for the children and families whose lives depend on our ability to provide quality legal representation.

Problems with the Current Caseload Standards

Parents facing the potential loss of their children and families navigating the complexities of the dependency system have a constitutional right to adequate representation. This is not a privilege or an aspiration; it is a bedrock principle of due process. Yet, the current caseloads imposed on family defenders make it very difficult to meet this standard, especially for a sustained amount of time. Quality family defense representation leads to better outcomes for children and families, reunification where appropriate, preservation of familial bonds, and fair hearings that respect the humanity of those involved. The proposed standards would ensure that family defenders can deliver this level of advocacy by reducing family defense caseloads to a manageable level, allowing family defenders to fulfill our constitutional duty and improve the lives of those we serve.

The current caseload of 80 cases is unsustainable and beyond what any attorney can reasonably handle while providing competent representation. We know this from the family defense workload study conducted in our state, and we know it from our everyday experience. I have carried caseloads at these levels, and I can attest to the personal sacrifices they demand: late nights poring over discovery, missed family time, and the constant gnawing feeling that I am not giving my clients what they need and deserve. I have watched colleagues struggle under the same weight. Some family defenders burn out, others leave the field entirely. The volume of work is staggering; preparing for a termination trial can involve processing thousands, sometimes tens of thousands, pages of discovery, interviewing witnesses, and crafting arguments tailored to a family's unique circumstances. This is no simple task, and it is made exponentially harder by the complexity of this area of law, which has grown more intricate in recent years with developments like *In re Z.J.G.*, and HB 1227. These legal changes demand more time and expertise, yet our caseloads have not adjusted to reflect this reality. The proposed standards would bring our workloads in line with these demands, enabling us to meet the needs of our clients without sacrificing our own well-being.

Attrition rates among Family Defenders

The problem of attrition among family defenders is getting worse, and we must act before it spirals out of control. We do not want to end up like Maine or Oregon, where shortages of qualified attorneys have left families without representation and courts in crisis. The high caseload, high stakes, and high litigation volume are primary drivers of attrition, all while dealing with families and parents at some of the lowest moments in their lives. Another source of this attrition in Washington stems from the disparity between caseloads for child attorneys and parent attorneys, a gap exacerbated by HB 1219 and the standards adopted by the Foster Care Commission. While child attorneys enjoy lower caseloads, parent defenders are saddled with burdens that drive many out of the profession. The proposed standards would address this inequity by adopting a single, reasonable caseload standard for all family defenders, leveling the playing field and reducing the pressure that fuels turnover. We must get ahead of these workload problems now, before attrition becomes unmanageable and our system collapses under the weight of its own dysfunction.

Bringing in New Family Defenders

Finally, we have an ethical obligation to create a sustainable system for bringing new lawyers into this practice, a goal the proposed standards thoughtfully advance. It is unreasonable to expect

attorneys fresh out of law school to take on a family defense contract with no supervision or support. The complexity of this work, combined with the high stakes for our clients, demands mentorship and guidance. Yet, the Office of Public Defense (OPD) cannot fill this role; it cannot “supervise” us or provide legal advice in our cases without violating the Rules of Professional Conduct (RPCs). The proposed standards address this gap by offering case credits to attorneys who supervise others. This framework would allow seasoned defenders to train and mentor novices, ensuring that new lawyers develop the skills and confidence to serve families effectively. Without such a system, we risk losing the next generation of competent family defenders before they even begin, further deepening our attrition crisis.

Implementation of the Proposed Standards

I understand that implementing these standards may require resources and careful planning. But the cost of inaction is far greater: families denied their constitutional rights, children separated from parents due to inadequate representation, and a justice system that fails its most vulnerable participants. The proposed caseload reduction is an investment in fairness, equity, and the future of family defense in Washington. It would empower us to build trust with our clients, prepare thoroughly for their cases, and advocate with the diligence they deserve, ultimately leading to better outcomes for children and families.

Addressing some of the issues raised by the SCJA for the implementation dates of phase one and phase two of the standards that address attorney caseloads, I would suggest each be delayed by one year. Practically, if passed, these rule changes will likely be adopted after July 2, 2025 which is when phase one is currently set to start in the proposed changes. By delaying the adoption by one year that will give the Office of Public Defense more time to recruit attorneys to the Family Defense profession. A built-in benefit of the proposed staggered phase adoption is that OPD does not have to recruit new attorneys all at once. OPD also provided input and were members on the committees at the WSBA when these proposed standards were being developed. These standards were ultimately adopted by the WSBA.

Phase one for caseload standards is perhaps the most critical timing wise as the reduction to a caseload standard of 45/60 would bring parent attorneys caseloads down to what youth attorneys currently have. OPD has also reported that this phase, as regards attorney maximum caseloads, can be implemented for under five million dollars according to OPD, which while a large sum of money, in the context of OPD’s budget, or indeed the state budget is a minimal amount.

Thank you for your thoughtful consideration of this pivotal issue. I respectfully urge you to adopt the proposed court rules change and reduce the caseload burden on family defenders. Our clients, our profession, and our justice system will be the better for it.

Sincerely,

A handwritten signature in black ink, consisting of a series of fluid, connected strokes that form the name Christopher Desmond.

Christopher Desmond, Esq.

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Farino, Amber](#)
Subject: FW: Comment on proposed indigent defense standards (Family Defense)
Date: Monday, April 28, 2025 2:22:00 PM
Attachments: [250428 Letter on caseload standards.pdf](#)

From: Christopher Desmond <christopher@desmondlaw.org>
Sent: Monday, April 28, 2025 2:12 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on proposed indigent defense standards (Family Defense)

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Greetings:

Attached is a comment on the indigent defense standards (Family Defense), CrR 3.1/ CrRLJ 3.1/ JuCR 9.2.

Thank you,

Christopher Desmond, Esq.

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