

## Structure and Function of the State's Juvenile Justice System

Washington State enacted its first juvenile code in 1913. The code remained in effect without major changes until 1977. In 1967, the United States Supreme Court forced many states, including Washington, to revise their juvenile laws. The Court held that juveniles, between the ages of eight and 18, were entitled to most of the same constitutional rights as adults, except trial by jury.

In 1977, the Washington State Legislature totally revised the state's juvenile code. This code, modeled after the federal Juvenile Justice and Delinquency Prevention Act of 1974, went into effect on July 1, 1978. The legislature has made revisions to the code each year since its enactment.

In 1997, the Washington State Legislature revised the state's juvenile code with the passage of E3S-HB 3900. The Revised Code of Washington divides juvenile law into three main areas: juvenile offenders, the family reconciliation act, and dependency/termination of parental rights. Other sections of the code deal with juvenile records and the relationship between states in juvenile matters.

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### Juvenile Offenders

The Juvenile Justice Act of 1977, and its revisions, governs the management of all juvenile offenders. The Act places emphasis on protecting society and on holding juveniles accountable for their offenses. Parents are encouraged and required to participate in juvenile offender proceedings against their child.

Under the Juvenile Justice Act, youth between the ages of eight and eighteen can be charged with the same crimes as adults. The County Prosecuting Attorney's Office is responsible for prosecuting juvenile cases. The prosecutor decides whether to divert a case, whether charges should be filed, and which crimes should be charged. Juveniles who commit traffic, fish, game, or boat violations are treated as though they were adults and handled by District or Municipal Courts.

The juvenile courts, which are part of the Superior Court system, handle all charges against juveniles outside of what is handled by District or Municipal

Court. Juveniles who are sentenced to confinement serve time in either a local juvenile detention facility and/or a state juvenile facility, instead of an adult jail.

Juveniles who have committed minor crimes, such as shoplifting, and do not have a record of serious offenses, may be offered diversion instead of being taken to court. Juveniles who are diverted meet with citizen volunteers or a court representative who decides the appropriate diversion agreement.

A diversion agreement may be restitution (repayment to the victim), counseling, informational or educational sessions, a fine of up to \$100, and/or community service hours. The juvenile signs the agreement, and if it is completed, no conviction appears on the juvenile's record. If the agreement is broken, the juvenile is referred to the court.

Juveniles who commit more serious offenses, and those who fail to keep their diversion agreements, are charged in Juvenile Court.

A juvenile who commits a very serious crime, such as aggravated murder, may be treated as an adult for that crime and for any future crimes committed. A juvenile court must make the determination that handling the juvenile as an adult is the appropriate course of action for the accused offender (discretionary decline case). Although in general juveniles may not be housed with adult offenders, juveniles remanded to adult court (per auto decline or discretionary cases) may serve their jail or prison terms in adult facilities (or juvenile facilities until age 21--see additional information regarding housing and placement on the following page, and in the Compliance section of this report, youthful inmate PREA standards).

The Violence Reduction Act, passed in 1994, transferred jurisdiction of 16- and 17-year-old youth charged with certain violent felonies to the Superior Court, to be tried as adults.

Legislation enacted in 1997 increased the range of offenses warranting transfer to adult court and placement in adult facilities for juveniles over the age of 16. The offenses include: robbery 1, rape of a child 1, drive-by shooting, burglary 1 if the offender has a prior adjudication, and any violent offense as defined in RCW 9.94A.030 if the offender was armed with a firearm.

When a juvenile pleads not guilty, the court holds a fact finding hearing (a juvenile trial) to determine guilt or innocence. Unlike adults, juveniles do not have the right to a jury trial, but are tried by a judge. A finding of guilty requires a hearing for sentencing.

A significant system improvement to Washington's juvenile justice system was HB 1651, an act relating to access to juvenile records, which was signed by the Governor on April 2, 2014; per Sec.1. (2): "the legislature declares it is the policy of the state of Washington that the interest in juvenile rehabilitation and reintegration constitutes compelling circumstances that outweigh the public interest in continued availability of juvenile court records." It requires that courts hold regular sealing hearings, and shall administratively seal an eligible juvenile court record after the youth turns 18, unless the court receives an objection to sealing, or the court makes a compelling reason not to seal, in which case the court will hold a contested sealing hearing. A juvenile's presence is not required at the sealing hearing. It requires that the juvenile has completed the conditions of disposition, including affirmative conditions and financial obligations. The bill also requires that the Administrative Office of the Courts ensure that the superior court judicial information system provides prosecutors access to information on the existence of sealed juvenile records, and specifies when juvenile records are eligible for destruction.

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### Sentencing of Offenders

In imposing a sentence, the court follows a sentencing grid based on the current offense and prior adjudications. The "standard range" sentence which a judge may impose may include time in a local detention facility designed for short-term residential confinement, a fine, restitution, community service and/or community supervision (probation). If a youth is sentenced to more than 30 days confinement they are placed in the care of the Department of Social and Health Services' Rehabilitation Administration. The Juvenile Rehabilitation (JR) program of the Rehabilitation Administration provides long-term confinement and individual treatment services to youth within a continuum of maximum, medium, and minimum security residential care facilities. For approximately half of the youth, their confinement is followed by a period of parole aftercare.

In imposing a sentence, a judge may use the standard range unless he or she declares a "manifest injustice." In declaring a "manifest injustice," the judge is saying that the standard sentence is either too harsh for the offender or too lenient to protect the community. The seriousness of a juvenile's prior adjudications may be considered by the court for the purposes of imposing a disposition outside the standard range. In these instances, the judge must put his or her reasons for the determination in writing.

Certain youth are eligible for dispositional alternatives in lieu of commitment to confinement. These alternatives include:

- Chemical Dependency Disposition Alternative (CDDA) - The court may require youth to attend available outpatient or in-patient treatment, along with community supervision.
- Special Sex Offender Disposition Alternative (SSODA) - Juveniles adjudicated for a first-time sex offense other than a sex offense that is also a serious violent offense are eligible. The alternative requires youth to participate in treatment with a state-certified therapist and remain on community supervision for at least 24 months; other conditions may also be imposed, including up to 30 days of confinement.
- Mental Health Disposition Alternative (MHDA) - Juveniles with mental health-related issues, which requires an evidence-based treatment and community supervision.
- Suspended Disposition Alternative (SDA) - A suspended commitment option for some youth who are not eligible for CDDA, SSODA, or MHDA.

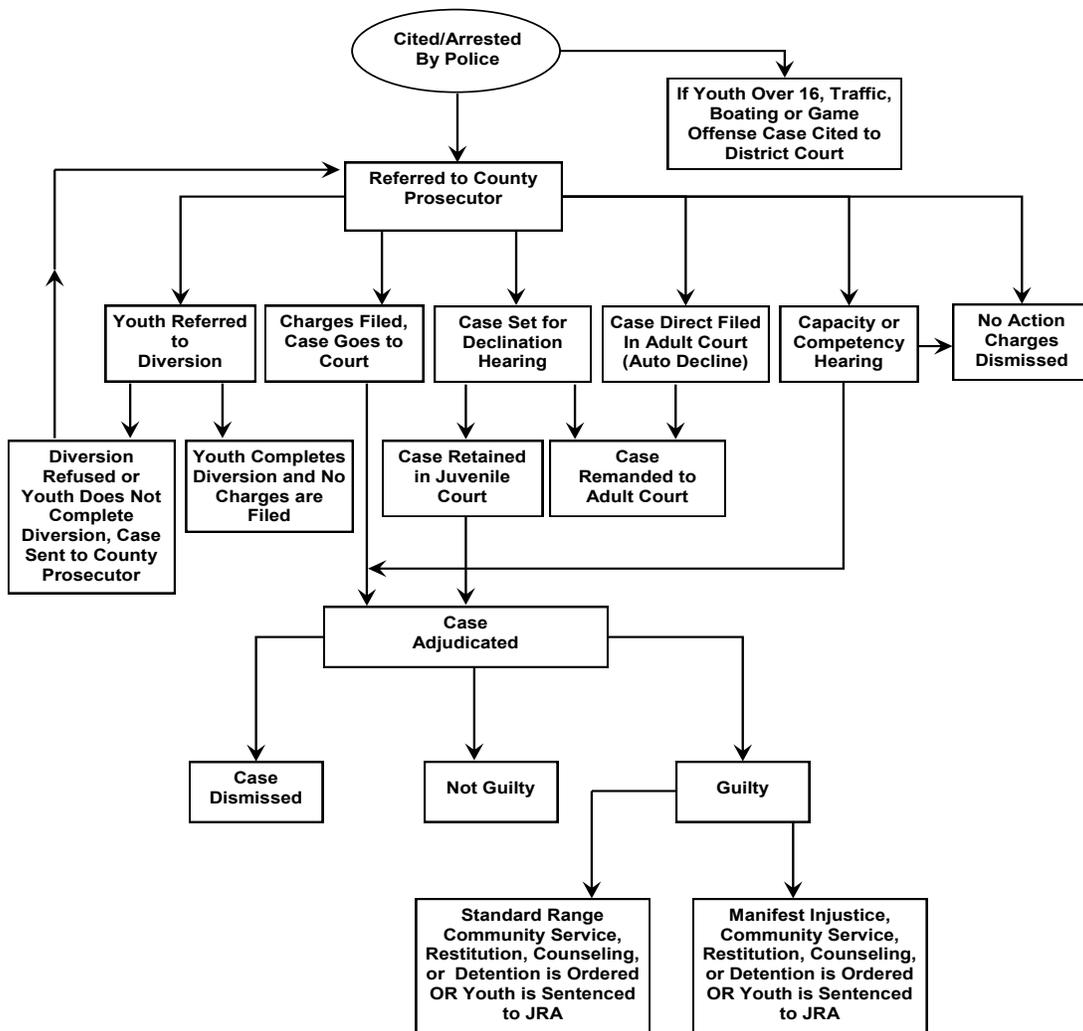
Per RCW 13.04.030 (1)(e)(v), youth ages 16 or 17 who have committed a serious violent or violent offense (as defined in RCW 9.94A.030) are automatically transferred to adult criminal court jurisdiction. The Department of Corrections has entered into an agreement with JR to place offenders who were sentenced as adults prior to age 18 in JR facilities. These youth get the benefit of treatment staff who are trained to work with adolescents, as well as the education, recreation, and other treatment opportunities provided in JR programs. In calendar year 2014 there were 85 remanded youth sentenced as "adult offenders" residing in JR. They may remain up until the age of 21 or until their sentence is completed, whichever

comes first. At that point, they move to an adult Department of Corrections facility/program for the remainder of their sentence.

During the 2014 state legislative session, in response to *Miller v. Alabama*, SB 5064 was passed, addressing offenders under the age of 18 with regard to: the resentencing of offenders previously sentenced to a life term; sentencing for a conviction of aggravated murder in the first degree; and petitioning the indeterminate sentence review board for early release after serving 20 years. In setting a minimum term, the bill requires that “the court must take into account mitigating factors that account for the diminished culpability of

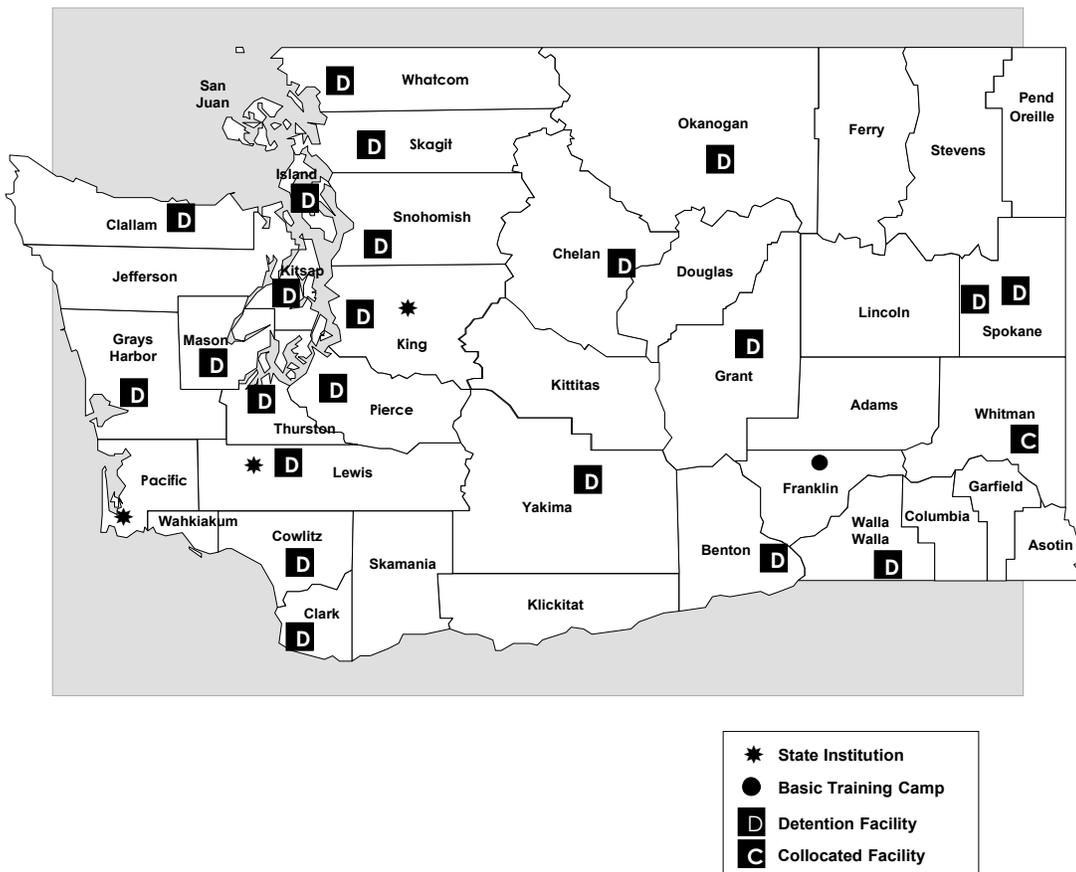
youth as provided in *Miller v. Alabama*, 132 S.Ct. 2455 (2012) including, but not limited to, the age of the individual, the youth’s childhood and life experience, the degree of responsibility the youth was capable of exercising, and the youth’s chances of becoming rehabilitated.” It also requires the legislature to convene a task force to examine juvenile sentencing reform – specifically, “a thorough review of juvenile sentencing as it relates to the intersection of the adult and juvenile justice systems, and make recommendations for reform that promote improved outcomes for youth, public safety, and taxpayer resources.”

### Juvenile Justice System Flow Chart for Criminal Offenses



## Juvenile Facilities in Washington State

There are 22 local juvenile detention facilities, three juvenile state institutions, one basic training camp, and one collocated facility.



## Juvenile Detention Facilities

Washington has **21 county-operated detention centers**, which are maintained by the juvenile courts; and **one regional center**, maintained by a consortium of counties (14 of the juvenile detention centers are in western Washington, and 8 are in eastern Washington). Juveniles from all 39 counties are held in these facilities. Juveniles are held in local detention facilities either to await court hearings or as sentenced juveniles.

There is one federally approved, **collocated juvenile detention facility** located in Whitman County where the adult jail is located adjacent to the detention facility. This short-term facility is used only intermittently to hold juveniles (and juveniles have not been held in the facility since the fall of 2008).

## Juvenile Correctional Institutions and Rehabilitative Services

The state's Rehabilitation Administration, Department of Social and Health Services, **Juvenile Rehabilitation (JR) Program** provides rehabilitative services to juveniles adjudicated for crimes throughout the state. With rare exception, youth committed to JR have been adjudicated for at least one violent offense, or have a history of a large number of felony offenses.

JR operates the following three secure residential facilities: Two medium/maximum-security institutions (Green Hill School and Echo Glen Children's Center); one medium security youth camp (Naselle Youth Camp). Echo Glen Children's Center provides services for female offenders.

Currently, JR also operates eight state-run community facilities with 121 minimum-security community beds. Additionally, JR contracts with two private providers for 7 Residential Treatment and Care Beds for low-risk offenders that replicate the Therapeutic Foster Care (MTFC) Blueprints program.

Juveniles released from these facilities may be supervised in the community for up to 6 months; most sex offenders are supervised for 24 to 36 months. JR utilizes a family-based service model for all parole services.

JR provides Cognitive Behavioral intervention and treatment to all youth within its residential programs. In addition, JR has evidence-based treatments available throughout its residential and community settings including: Functional Family

Therapy, Aggression Replacement Training, and Family Integrated Transitions.

JR provides specialized drug and alcohol treatment services to substance abusing and chemically dependent juvenile offenders. JR currently operates two separate intensive inpatient chemical dependency programs, two intensive outpatient programs and one recovery house and long-term care chemical dependency program. Other institutional and community programs include: drug and alcohol assessment, intervention, education and aftercare. Sex offenders are provided assessments, treatment, and resources throughout the JR system.

Youth with mental health disorders are given assessments, appropriate medication management, and treatment services. In FY 2013, approximately 71% of youth in residential facilities were identified as having mental health service needs.

## Block Grant for County Juvenile Programs

The Juvenile Rehabilitation program manages the block grant with 33 county juvenile court jurisdictions. Block grants create higher levels of local flexibility regarding the use of these State funds, and also require higher levels of accountability linked to outcomes.

The Block Grant provides funding to counties for a wide range of programs, including:

- Evidence-Based and Promising Programs
- Disposition Alternatives
- Diversion
- Probation Supervision
- Other services, such as individual counseling, drug/alcohol assessment and treatment, alternative education, sex offender treatment, and psychiatric and psychological services.

County juvenile courts participating in the Block Grant are mandated to utilize a client risk assessment tool to determine youth service needs and to identify the most appropriate Evidence-Based Program assignment for probation youth. All of the state's 39 counties have block grant programs located within the 33 juvenile court jurisdictions.

The Family Reconciliation Act (formerly Procedures for Families in Conflict) was enacted in 1978, as a result of the national trend towards the decriminalization of status offenders (RCW 13.32A). The legislative intent of the law recognized "that the family unit is the fundamental resource of American life which should be nurtured, and that

Programming within the block grant includes: CJAA (Community Juvenile Accountability Act—evidence based programs), CDDA (Chemical Dependency Disposition Alternative), SSODA (Special Sex Offender Disposition Alternative), MHDA (Mental Health Disposition Alternative), and the SDA (Suspended Disposition Alternative or Option B).

### Community Juvenile Accountability Act

The **Community Juvenile Accountability Act (CJAA)** was enacted as part of juvenile justice reform legislation (E3SHB 3900) in 1997. Juvenile courts began implementing CJAA interventions in January 1999. These programs have been shown by research to be effective in reducing recidivism among juveniles. Programs target youth on county probation who are moderate to high risk for re-offending.

Evidence-based juvenile offender programs include: Functional Family Therapy (FFT), Aggression Replacement Training (ART), Multi-systemic Therapy (MST), Family Integrated Transitions (FIT), and Coordination of Services (COS).

### Evidence Based Program Expansion

The 2008 Legislature authorized additional funding for evidence-based programming for both JR and county programs. These funds are provided under separate contracts and focus on a true statewide expansion of EBPs. This funding source roughly doubles the appropriated funding level for these programs that have demonstrated reductions in recidivism and an associated cost/benefit to the State.

### Juvenile Accountability Block Grant (JABG)

JR also administers the federal Juvenile Accountability Block Grant (JABG) Program that provides funding for state, county, city and tribal juvenile justice projects. Examples of projects funded include: intensive county probation services, day reporting programs, drug court programs, additional juvenile prosecutors, and enhancement to evidence-based interventions.

### Interstate Compact on Juveniles

JR additionally administers the Interstate Compact on Juveniles (RCW 13.24), which provides for the cooperative supervision of youth on probation and parole as they move between states. The program provides for the return of out-of-state escapees and non-adjudicated runaways.

### Family Reconciliation Act

it should remain intact in the absence of compelling evidence to the contrary.”

Laws dealing with runaways, families in conflict, and abused or neglected children attempt first to reunite the family while protecting the child. Juveniles whose offenses would not be crimes if committed by an adult (status offenses such as running away and truancy) are treated differently from juveniles who commit crimes.

The At-Risk/Runaway Youth Act, which became effective in July 1995 and is known as the “Becca Law,” governs issues related to status offenders/non-offenders (runaways, at-risk youth, truant, and children in need of mental health and substance abuse treatment). Law enforcement officers can pick up a reported runaway or child whom the officer believes is in circumstances that cause a danger to the child’s safety.

Per state law (RCW 13.32A.060), a runaway taken into custody by law enforcement shall be taken to his/her parents’ home or place of employment. The parent may also request the officer to take the child to the home of a responsible adult, relative, or a licensed youth shelter. If the parent cannot be located, the law enforcement officer shall take the child to a Secure Crisis Residential Center (S-CRC), or to a semi-secure facility if a S-CRC is full, not available, or not located within a reasonable distance. If a Crisis Residential Center is full, not available, or not located within a reasonable distance, the officer shall request that DSHS accept custody of the child.

As of May 2014, there are five S-CRCs statewide with a total of 34 beds. Three of the facilities are private facilities:

- Ohana Crisis Services, Inc. in Yakima (5 beds)
- Oak Grove (Janus Youth Programs) in Vancouver (6 beds)
- Spruce Street Inn (Pioneer Human Services) in Seattle (15 beds)

Two of the facilities are located within separate secure sections of county juvenile detention facilities:

- Chelan County Juvenile Center (4 beds)
- Clallam County Juvenile Court (4 beds)

The Act was amended in 2000, to expand the population of children eligible for admission to some

S-CRCs, to permit juvenile courts to order detention of a child, for contempt of court pursuant to a status offense proceeding, to either a juvenile detention facility or a S-CRC which is located in a separate section of a detention facility. No more than 50 percent of the S-CRC population can be comprised of youth held for contempt of court.

A youth could be held in a secure CRC for up to five consecutive days while his/her problems were assessed. A youth could be transferred to a semi-secure CRC after the initial 24 hours--“the aggregate length of time spent in all such centers or facilities may not exceed five consecutive days per admission.”

However, in 2009 RCW 13.32A.130 was amended to provide that a youth admitted to a secure crisis residential facility not located in a juvenile detention center or a semi-secure facility may remain for up to 15 consecutive days. “If a child is transferred between a secure and semi-secure facility, the aggregate length of time a child may remain in both facilities, shall not exceed 15 consecutive days per admission, and in no event may a child’s stay in a secure facility located in a juvenile detention center exceed five days per admission.”

Multi-disciplinary teams may be established to work with families and achieve reconciliation. If such services fail to resolve the conflict, a Child in Need of Services (CHINS) court process may be initiated by DSHS, the parent(s) or the child. A family assessment must be completed before a CHINS petition is filed.

If the court approves a CHINS petition, the disposition may include an out-of-home placement and may require the child to: attend school, counseling, chemical dependency or mental health outpatient treatment; report to DSHS or other agency; and comply with supervision conditions including employment, anger management, or refraining from alcohol or drugs. The child and DSHS must meet a higher burden of proof than parents, to obtain an out-of-home placement order. If the court grants an out-of-home placement as part of the CHINS petition, it will hold periodic reviews to find out if the child is able to return home.

Parents of at-risk youth may request and receive assistance from the court and the state in providing appropriate care, treatment and supervision for their children. Parents of at-risk youth, as defined in statute, can file an At-Risk Youth (ARY)

petition to keep the youth at home. The court can order the youth to remain at home and meet certain conditions. The court can also order both the parent and child to participate in counseling services.

Other sections of the “Becca Law” govern issues relating to truancy and absenteeism in the schools. Specifically, state law (RCW 28A.225.030) provides that “if the actions taken by a school district under RCW 28A.225.020 are not successful in substantially reducing an enrolled student’s absences from public school, not later than the seventh unexcused absence by a child within any month during the current school year, or not later than the tenth unexcused absence during the current school year, the school district shall file a petition and supporting affidavit for a civil action with the juvenile court alleging a violation of RCW 28A.225.010...” An unexcused absence means (RCW 28A.225.020(2)) that a student **has failed to attend the majority of hours or periods in an average school day or has failed to comply with a more restrictive school district policy, and has failed to meet the school district’s policy for excused absences.**

On January 12, 2009, the State Court of Appeals published an opinion that had a significant impact on the truancy petition process (and subsequently on significantly reducing truancy contempt filings and admissions to juvenile detention facilities related to a truancy order/proceeding in 2009— for contempt or FTA). The case -- *Bellevue School District v. E.S.*, 148 Wash. App. 205 (2009), petition for review granted July 7, 2009 -- found that the youth had not been afforded legal counsel at the time the original truancy petition was filed in court (the fact-finding stage). The appellate court concluded that a child’s interest in liberty, privacy and right to an education are in jeopardy, and a child is unable to protect those interests without counsel.

On June 9, 2011, the Washington State Supreme Court reversed the Court of Appeals decision, and found that neither the due process clause of the 14th Amendment to the U.S. Constitution nor the due process clause set forth in the Washington State Constitution would require appointment of counsel at the initial truancy proceeding stage; it was concluded there were no significant interests at stake (i.e., the youth’s physical liberty) warranting appointment of counsel at the initial hearing where the determination is made if the student is

truant under state statute; and it was noted that the youth has the right to counsel at contempt hearings related to a truancy order,

The 2012 State Legislature passed SB 6494, that furthers due process protections for youth in truancy cases -- specifically, that clarifies processes for issuing a bench warrant in truancy petition cases (a court may not issue a bench warrant for a child for failure to appear at an initial truancy hearing); also, this legislation lowers the maximum age of a child at which a school district is legally required to file a truancy petition (from 17 to 16 years of age). The legislation also requires initial petitions to contain information about the child's academic status, and modifies school district reporting requirements after the court assumes jurisdiction in a truancy case.

A youth who fails to comply with the terms of a court order under the Family Reconciliation Act (a contempt of court finding) may be sentenced to confinement in a secure juvenile detention facility for up to 7 days (or to an alternative to detention program) and/or fined up to \$100 (per RCW 13.32A.250). Further, "...the court shall treat the parents and the child equally for the purposes of applying contempt of court processes and penalties under this section."

Data received from the Administrative Office of the Courts shows that in 2012 approximately 15 percent of the total admissions to juvenile detention facilities statewide were for violations of a court order related to a status offense.

### **Dependency/Termination of Parental Rights**

A child who is considered to be legally "dependent" is a child under the age of 18 who has been found by the court to be abused, abandoned, neglected, or at risk of serious harm. The court assumes responsibility for the child's welfare. The child may remain at home with DSHS providing supervision and services to the family. If the court feels that the child would be in danger at home, the court may place the child in foster care or with relatives. When a child is placed out of the home, the law requires DSHS to provide all reasonable services available within the community in an attempt to reunite the family, though the welfare of the child is of primary consideration. The court reviews dependency cases at least every six months.

### **Court Role in Termination of Parental Rights**

RCW 13.34.180 and 13.34.190 provide the criteria and findings required for the court to terminate parental rights to a child.

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