



King County

Department of Public Defense

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Jay Inslee
Governor, State of Washington
PO Box 40002
Olympia, WA 98504 - 0002

April 1, 2020

Re: Request for Clarification Regarding Family Visitation for Children Involved in Washington's Foster Care System—Proclamation 20-33

Dear Governor Inslee,

We would like to start by thanking you for your swift action to protect the people of Washington during this public health crisis. In particular, we are grateful that you have recognized the importance of parent-child contact during this emergency, especially for children who have been separated from their parents by the Department of Children, Youth and Families (DCYF). The guidance you provided, which encourages and supports virtual contact whenever possible, is helpful and forward-thinking. We fully support DCYF's efforts, consistent with your guidance, to provide parents with the concrete technology to allow for that contact.

We write now, however, to ask for further clarification of your proclamation as it pertains to in-person parent-child visits and sibling visits. Your proclamation indicates it is necessary to suspend "in-person visitation requirements" that "require in-person visitation of children in the custody of the Department of Children, Youth, and Families by parents or other family members." However, the proclamation, in its intent and in the changes it makes to the statute, only removes requirements that *mandate* in-person visitation – the Proclamation does not bar in-person visitation. Visitation is a right of the family – of both parents and their children. RCW 13.34.136(2)(b)(ii). In order to protect that right, dependency courts across the state have entered orders directing the frequency and type of family visitation, specific to each family. Your proclamation does not instruct DCYF to ignore those existing orders and it does not suspend the parts of the statute that provide for due process and judicial review over the denial of visitation. *See* RCW 13.34.136(2)(b)(iii)(B); RCW 13.34.090(1).

Nevertheless, in-person visitation is being suspended across the state. Therefore, it would be helpful if you could clarify further that your proclamation lifts the statutory mandates that require



DCYF to maintain the maximum possible contact between parents and children, but continues to allow an individualized determination about visitation specific to the needs of any particular child or family. Each family and each child is unique. It should be up to the parties, if they agree, or up to the court, if parties disagree, to determine if safe, in-person visitation is still possible.

Jerry Milner, Associate Commissioner for the Children’s Bureau, the federal agency that oversees compliance with federal child welfare statutes, sent a letter on March 27, 2020, offering guidance during the COVID-19 health crisis. The guidance the Children’s Bureau proffers to state agencies that oversee foster care “strongly discourages the issuance of blanket orders that are not specific to each child and family that suspend family time; doing so is contrary to the well-being and best interest of children, may contribute to additional child trauma, and may impede the likelihood of reunification.”

We echo the Children’s Bureau’s concern and ask for your clarification that, under Proclamation 20-33, there isn’t a blanket bar against family visitation for children involved in the foster care system. Instead, state law continues to require individual determinations and permits in-person visitation in those instances where visitation can be accomplished in safe and healthy ways, consistent with other COVID-19 guidance.

Sincerely,

Anita Khandelwal, Director, **King County Department of Public Defense**
Annie Blackledge, Director, **The Mockingbird Society**
Anne Lee, Executive Director, **TeamChild**
Christie Hedman, Executive Director, **Washington Defender Association**
Amy Hirotaka, Executive Director, **Washington Association of Criminal Defense Lawyers**
Michele Storms, Executive Director, **ACLU-WA**
Vanessa Torres Hernandez, Director of Advocacy, **Northwest Justice Project**
Susan Kas, Director of Community Inclusion & Services Program, **Disability Rights Washington**
Erin Lovell, Executive Director, **Legal Counsel for Youth and Children**
Lisa Sangoi and Erin Miles Cloud, **Movement for Family Power**
Courtney Chappell, Advocacy Director, **Legal Voice**
Greg Link, Director, **Washington Appellate Project**
Sara Ainsworth, **If When How: Lawyering for Reproductive Justice**
Joanne Alcantara, Executive Director, **API Chaya**
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Law Office of Steve Curtis



Cc:

Ross Hunter

Secretary, Washington State Department of Children, Youth, and Families

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