

# Children In The Courtroom: The Child-Centered Courtroom

Presented By:

**Bret Smith**

Managing Attorney  
Office of Civil Legal Aid  
Children's Representation Program

Lived Expert Engagement By:

**Nick Guzman**

Client Voice and Community Impact Coordinator  
Office of Civil Legal Aid  
Children's Representation Program

May 4-5, 2026



# Presentation Map

## Best Practices & Resources

Provide an overview of best practices, resources, & guidance regarding children in court

## The Law

Discuss due process & other legal considerations regarding children in court

## Making Improvements

Share actions & steps professionals can take to improve the experiences of children in court



# Presentation Goals

Ensure attendees understand the value and importance of children & youth participating in their court hearings.

Provide attendees with knowledge and resources to effectively engage children during their court hearings.



**Best  
Practices &  
Resources**

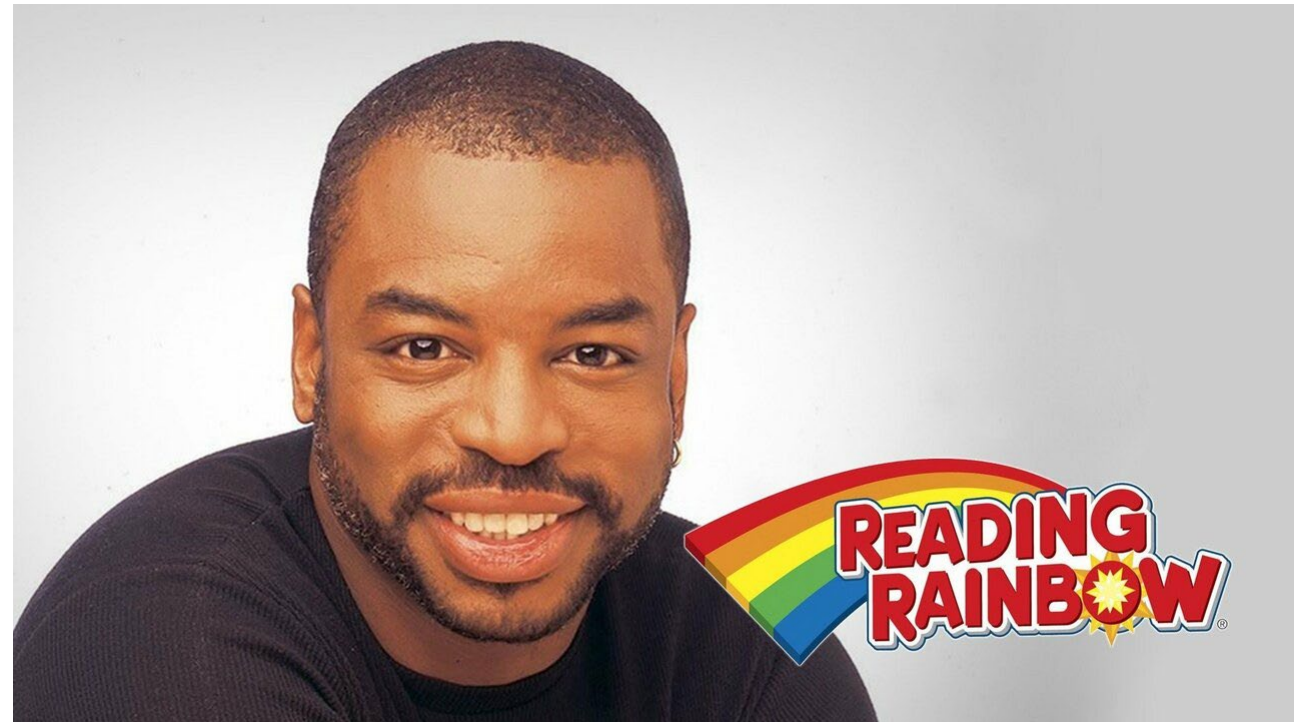
**Full participation and engagement**

## Best Practices

Children should be fully engaged with and participate in their dependency cases.

Best  
Practices

But you don't have to take  
my word for it...



## Best Practices

“Social science research in family and juvenile law demonstrates that children have better long-term outcomes when they feel they have a voice in court proceedings.”

Stephanie L. Tang, *Safeguarding Children’s Voices in Child Protective Proceedings*, 102 Denv. L. Rev. 41, 56 (2024).

# Lived Experts

---

## First Video:

- The question set was developed in collaboration with the lived experts
- Questions were provided in advance of the recordings
- This video clips together each expert's answer to the questions in order

# Lived Experts

---

## Charissa Keebaugh

Charissa is an author, advocate, and creative voice dedicated to increasing support for transition-age youth through community engagement. With over 10 years of involvement with DCYF, her work focuses on raising awareness, amplifying the voices of youth in care, and promoting more supportive and equitable systems for those navigating state led systems.

# Lived Experts

---

## Jonas Rios

Jonas Rios, Former Foster Youth & Youth Advocate (he/him). Jonas' first shelter care hearing was at 17 years old in California and has experienced recurrent ACEs and housing instability his entire life. His first introduction to youth advocacy work was in a leadership academy program at 18 years old designed for foster youth to learn more about legislative/policy work. From that point, Jonas has been engaged in a variety of different youth-led advocacy spaces and non-profit organizations that are centered around helping system-impacted youth. Jonas brings a very trauma informed approach with lived experience and is focused on centering youth voices that are often ignored or misunderstood.

# Lived Experts

---

## Destiny Hornstein

Destiny is the mom of two boys and married to her PE teacher husband of 17 years, she spends her days as a behavior intervention teacher, showing up for kids when it matters most. Destiny is currently Recognized as a Washington State Regional Teacher of the Year and honored as Educator of the Year by the Spokane Valley Chamber of Commerce in the East Valley School District.

Destiny holds a Bachelors in Developmental Psychology, a Masters in Criminal Justice, and another Masters in Emotional and Behavioral Disorders.

As a certified grief recovery specialist, she's not afraid to step into hard spaces—professionally or personally—and believes honesty is the only way through. When she's not working, you'll find her running, reading or chasing mountain air whenever she can. She is constantly curious and rarely content, she's always learning, always growing.

Destiny recently stepped into a new role as Director of the Be Kind Garden for CASA Partners, continuing her commitment to making a meaningful impact in her community. Most weekends, though, are spent where she's happiest—on the sidelines of a baseball field, cheering on her boys.

# Video Slide



**Best  
Practices &  
Resources**

**Washington State**

- **Dependent Youth Interviews Pilot Program**
- **Practice Standards**

## Washington State Pilot Program

### Dependent Youth Interviews Pilot Program

- A 2008 law that directed DCYF (then DSHS) and AOC to implement a pilot program across four counties aimed at increasing youth contact with the judicial officers in their cases.
  - King, Spokane, Thurston, and Benton-Franklin
- 2010 Final Report to the Legislature by the Washington State Center for Court Research
- [Link](#)

## Washington State Pilot Program

### Dependent Youth Interviews Pilot Program

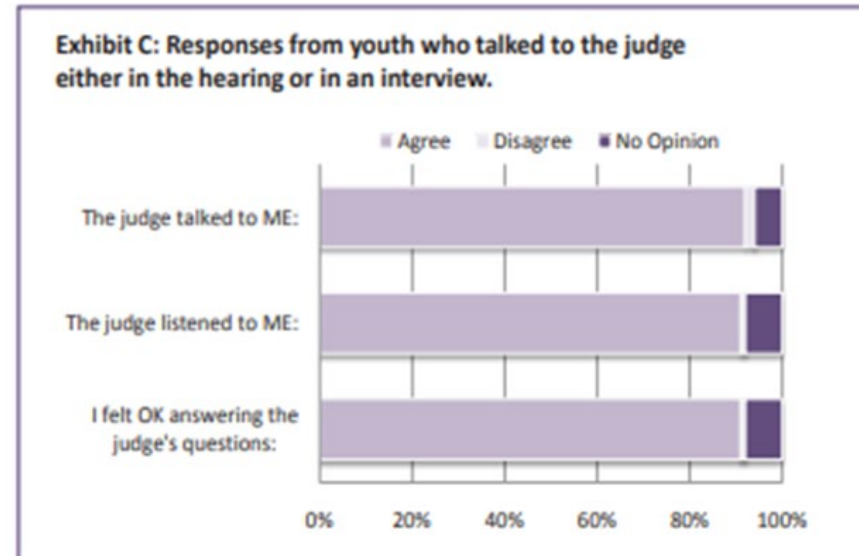
- The program was directed at children aged 12 and older and provided them with express rights including the right to be present at hearings and to be heard at hearings.
- It also required people to inform them of these rights.
- It also allowed for in chambers interviews with children which created parental due process concerns.

## Washington State Pilot Program

“While the focus of this pilot program has been on the youth interview process, the significance of a judge directly engaging with youth in open court cannot be overstated. One-on-one communication between the judge and youth, as part of the hearing, sends a compelling message about the value the court places on what an adolescent has to say. While the more private interviews are also a clear indication of the court’s interest, the practice of direct interaction with youth, in the court hearing, should be considered as a best practice for all courts.”

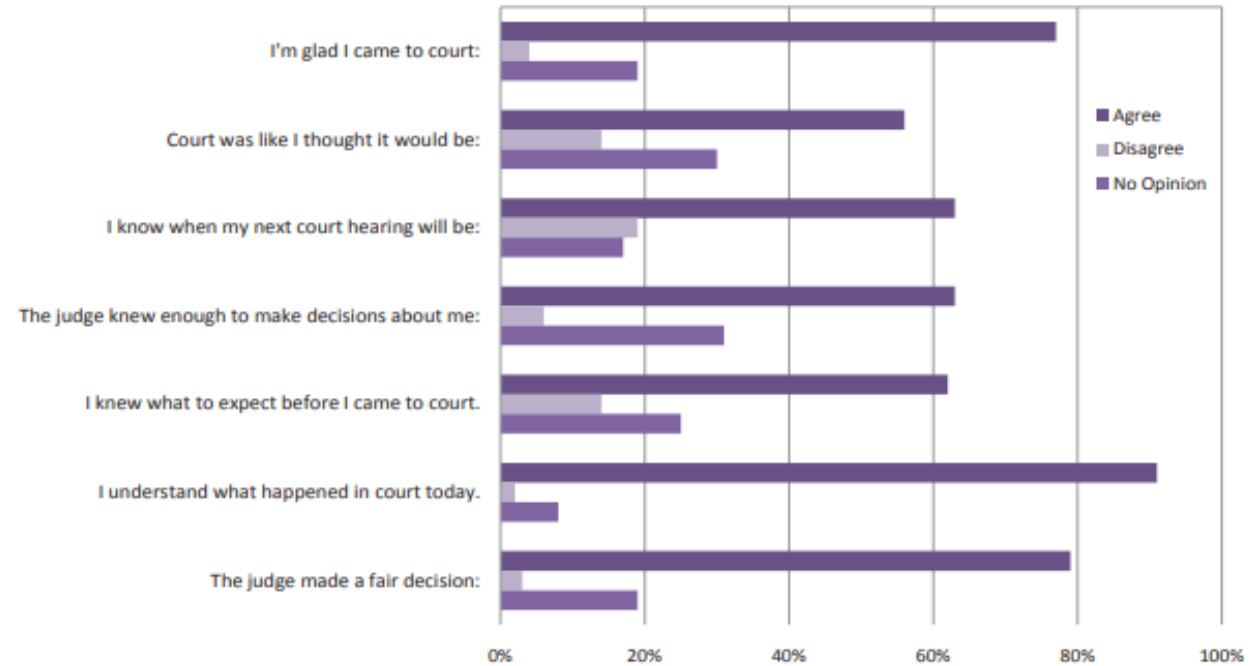
# Washington State Pilot Program

Youth feedback was highly positive.



# Washington State Pilot Program

Exhibit D: Responses from youth on their court experience.



## Washington State Pilot Program

55% of youth attended their hearings.

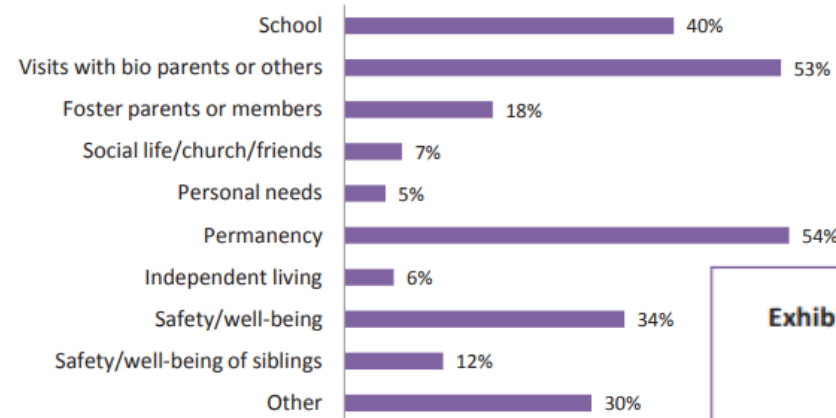
“Judicial officers reported that in 86% of hearings there was no transportation or other logistical problem that prevented youth from attending the hearing. In the 10% of cases where a problem was identified, the most prevalent reason was that the youth resided or was traveling out of town, or the youth was incarcerated or receiving inpatient treatment.”

62% of youth reported they had to miss school to attend court.

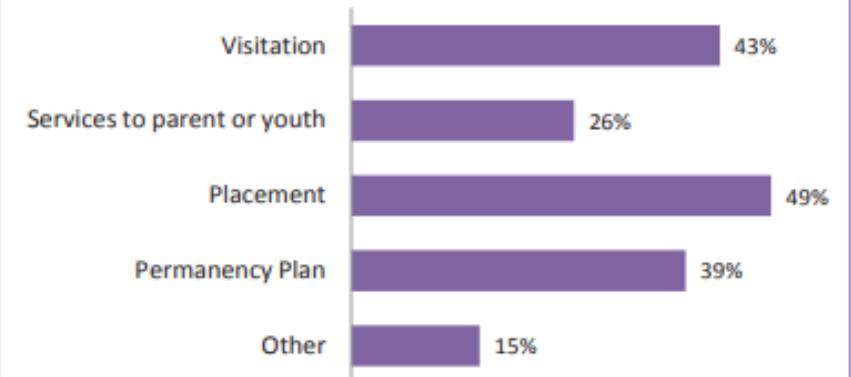
# Washington State Pilot Program

“Judicial officers reported on the overall usefulness of their interview with youth by characterizing whether they gained an additional perspective or better information about the issues pending before the court. For 35% of the interviews, judges described their experience as being ‘a little useful,’ 40% of interviews were reported as ‘quite useful’ and in 25% judges reported the interview to be ‘very much useful.’”

**Exhibit A: Areas of concern raised by youth during interviews.**



**Exhibit B: Areas in which judges noted gaining a better perspective through interviewing.**



## Washington State Pilot Program

### Key Conclusions:

“Several judges offered their belief that it empowers youth just to see that the court is interested in hearing from *them* directly, even if they have appointed counsel.”

“One judicial officer noted that the survey prompted him to develop the habit of asking at the hearing who had advised youth, and he was initially surprised to learn that no one had, so ‘I plan to continue asking.’ Regarding the practice of asking in open court who had told youth about the hearing, another judge simply put it, **‘if the parties know it matters to the judge that a youth is present, it will become important to them too.’**”

## Washington State Pilot Program

### Another Key Finding – Training

“Even among experienced judicial officers, training to develop skills for effectively interviewing adolescent youth is a critical component to the practice. Training is also warranted for social workers and others who play a role in helping youth engage with the court.”

# Washington State – Practice Standards

## Representation of Children and Youth in Dependency Cases, Practice, Caseload, and Training Standards (Practice Standards)

- Created by the Washington State Supreme Court Commission on Children in Foster Care at the request of the legislature.
- Practice standards which children's counsel appointed under RCW 13.34.212 are required to comply with and which OCLA CRP is required to ensure our contractors comply with.
- [Link](#)

## Washington State – Practice Standards

### Practice Standards § 7.3 – Child at Hearing

The child has a right to be present at court hearings and should be encouraged to do so if appropriate. The child's attorney should consult with the child regarding the child's desire to be present at each court hearing, including procedural hearings at which the substantive interests of the child are not at issue and regardless of whether the child will testify. The child's attorney is expected to consult with the child prior to each scheduled hearing to ensure that the child understands their right to be present at the hearing, to advise the child on the nature of the hearing, what to expect during the hearing, and to determine whether the child wishes to be present. **After consultation, the attorney shall follow the child's decision regarding whether they will attend the court hearing.** If the child wishes to attend the hearing, the attorney should work with the Department and or placement to ensure attendance at hearing. Attorneys should advocate for hearings to occur during times that have the least impact on child's schedule.



## Best Practices & Resources

### American Bar Association

- Policy Resolution 613
- Youth Engagement Project
- Model Act & Practice Standards

# ABA Policy 613

## **ABA Policy Resolution 613**

RESOLVED, That the American Bar Association urges federal, state, local, territorial, and tribal legislatures to enact, and courts to enforce, laws establishing a presumption of child presence in all dependency proceedings to ensure that:

1. legal decisions and practices respect and value a child's unique identity, including their racial, cultural, ethnic, linguistic, sexual orientation, and gender identities;
2. the child can express their individual needs and interests and meaningfully engage in a case; and
3. the child, in consultation with the child's attorney, has the sole right to choose not to be present and reasons such as age, disability, scheduling conflicts, lack of transportation, or perceived trauma which is not documented, are not used to rebut the presumption.

FURTHER RESOLVED, That the American Bar Association urges courts to support a presumption of child presence in dependency proceedings through changes in court rules and policies;

FURTHER RESOLVED, That the American Bar Association urges children's attorneys to safeguard and advocate for the presumption of presence, to confirm prior to a hearing that the child's transportation to court has been secured, and to thoroughly prepare the child to participate in their court proceedings; and

FURTHER RESOLVED, That the American Bar Association urges federal, state, local, territorial, and tribal governments to work with individuals who have experienced dependency cases as children to build an evidence base of trauma-responsive best practices, and to provide ongoing training for judges and lawyers, for engaging children in court and recognizing the fundamental dignity and humanity of each child in dependency proceedings.

# ABA Policy 613

## Why is child presence important in dependency cases?

### **Presence in court informs better judicial decision-making.**

A child is more than a set of initials in a case file. Dependency court and administrative hearings require an understanding of who a child is as a unique individual, including each child's racial, cultural, ethnic, linguistic, sexual orientation, and gender identities, as well as specific needs that relate to those identities. Assessing unique needs and identity is best understood by engaging the child as a part of legal hearings in their own dependency cases, regardless of age.

### **Presence in court produces better experiences for children**

Participation in court improves the child's experience with the legal system and enhances trust in the overall court process.

- ▶ A project in New Jersey evaluating children's experiences participating in their own child welfare legal proceedings found that 97% of the child participants (aged 4-18) were "glad they came" to court and would want to come again, and 81% said it felt like a "good experience."
- ▶ By comparison, children who did not attend their hearings were not convinced the judge had adequate information to make a decision in their case.

## ABA Policy 613

### Why is a presumption of presence necessary if children already have a right to be present in many jurisdictions?

Even with a right to appear in court, too often the burden still falls on children and children's counsel to affirmatively assert that right while courts, child welfare agencies, and others retain power to exclude children from the courtroom.

As a result, children are not consistently permitted, invited, or encouraged to attend hearings. For example, a recent evaluation in Colorado found that while 61% of children with dependency cases wanted to attend proceedings, court data "indicates less than 12% attendance rates for all hearing types" in dependency cases.

- ▶ In some instances, the divide between a child's right to participate and actual opportunity to attend hearings arises from logistical barriers like transportation to court, a hearing schedule that conflicts with school attendance, or lack of accommodation for children with disabilities.
- ▶ In other instances, judges, attorneys, and social workers decide that it would not be in a child's best interests to participate because of their age, perceived potential for trauma, or other concerns, and make that decision without the child's input.

# ABA Policy 613

There is also an extensive Policy Report attached to the Policy Resolution

[\(Link to the Policy with FAQ and Report\)](#)

“[A] recent evaluation in Colorado found that while 61% of children with dependency cases wanted to attend proceedings, court data ‘indicates less than 12% attendance rates for all hearing types’ in dependency cases.”

“This is consistent with guidance from other national organizations and is supported by evidence from pilot programs showing that when supported properly by trained attorneys and judges, there is no age at which it is inappropriate for children to attend court hearings.”

**“Meaningful participation serves to humanize the process and leads to a better understanding and acceptance of decisions made in court—even when they are not consistent with the child’s desired outcomes.”**

## ABA Policy 613

**“There is often a concern that attending court may not be good for children because they may hear difficult things, miss school, or won’t understand. Evaluations of children’s experiences in court demonstrate quite the opposite.** When asked about the experience of court participation, instead of describing fear, ‘if anything, many children wanted more say in the legal decision.’ Research also shows that participation in court improves the child’s experience with the legal system and enhances trust in the overall court process.”

“The majority of states (30) provide children with a right to attend and participate in proceedings.”

“The decision to not be present or to be present and not participate should be driven by the child’s wishes after consultation with the child’s attorney, rather than by anyone else.”

**“Many children feel empowered coming to court. Even at relatively young ages, they understand decisions are being made about their lives, and would like to be included.”**

## ABA Policy 613

### Judicial engagement with children

How a judge interacts directly with children in court can facilitate meaningful participation and mitigate potential trauma. The judge, attorneys, and court staff should be trained in trauma-responsive practices, to ensure the child has supports needed to mitigate or address any potential trauma that may occur.<sup>36</sup> For example, before the hearing, the judge should:

- ▶ ask the attorney to share the child's preferred name and pronouns and address the child accordingly in the proceedings.
- ▶ be careful not to assume the gender of the child, and ensure a child is not misgendered in court, particularly in the case of trans or nonbinary youth.
- ▶ ensure that a disabled child has the reasonable accommodations they need to fully participate in the proceedings.

# ABA Policy 613

The judge should prepare in advance which questions to ask, be patient if a child is slow to respond, offer multiple opportunities for the child to respond or speak, give the child time and space to share what is important to them, and present a welcoming demeanor. Additionally, certain questions are likely to make the child more comfortable, set a welcoming tone, and elicit important information:

*Sample questions:*

I understand your name is X. Am I pronouncing it correctly? Is that what you like to be called?

How are you doing?

Do you need anything today?

How are things going in your placement?

Are you visiting with your family? Your siblings?

Do you like going to school?

How are you doing in school?

Do you have a favorite teacher or subject?

Are you involved in extracurricular activities?

Do you know what you want to be when you grow up?

## **ABA Policy 613**

The Report provides further information such as:

- More judicial officer guidance
- Child's attorney guidance
- Considering court scheduling
- Allowing video appearances
- Continuing hearings to allow children to be present
- And more

## ABA Youth Engagement Project

“The Youth Engagement Project improves outcomes for youth in foster care and young people who have aged out of care. It promotes youth involvement in court cases, permanency and transition planning for older youth, and extending foster care after age 18.”

[Link](#)

# ABA Youth Engagement Project

## Areas of Focus



### Engaging Youth in Court

The project is a national leader on engaging youth in their court hearings. Federal and state laws increasingly support this concept. The project ensures systems serving youth, and youth themselves, support meaningful youth engagement in court.



### Extending Care after Age 18

The Fostering Connections Act of 2008 provides federal reimbursement to states for extending foster care beyond age 18. Many states have taken this option. The role of courts and attorneys is critical to support permanency for these youth.



### Permanency and Transition Planning

Youth in care often enter independent living programs or age out without support. Federal legislation is recognizing these needs. Judges and attorneys play important roles supporting permanency and positive outcomes for these youth.



### Adolescent Brain Research

With funding from the Annie E. Casey Foundation's Jim Casey Youth Opportunities Initiative, the project developed a toolkit on applying adolescent brain science to engage youth in court hearings and case planning.

## **ABA Youth Engagement Project**

Lots of resources such as:

- ABA Adolescent Brain Research Toolkit
- Many articles and other materials regarding child engagement in court and their cases generally
- Some tools and resources from other states
- Bench cards for engaging children in court broken down into various age groups
- And more

# ENGAGING SCHOOL-AGE CHILDREN (AGES 5-11) IN THE COURTROOM

## JUDICIAL BENCH CARD<sup>1</sup>

# ABA Youth Engagement Project

### Document court actions

Document in the court order:

- If the child is present, have him identify himself on the record.
- OR if the child is not present, address the reasons why the child is not in attendance.
  - What efforts were made and the accommodations offered to encourage the child's attendance.
  - Explore and encourage resolution of common reasons for nonattendance, including interference with the school schedule and transportation issues.
  - Depending on the situation, consider postponing the hearing until the child can be present.
  - Request a current picture that will be introduced into the record.<sup>2</sup>

### Communicate with the child during the hearing

- Keep language simple and age appropriate.
- Talk with the child about his interests, likes, and dislikes.
- If helpful, offer to have a conversation in chambers, making sure it complies with all procedural rules.
- Provide an age-appropriate list of legal terms to the child before court to which he may refer during the hearing.<sup>3</sup>
- Avoid legal jargon and acronyms.
- Encourage the child to ask questions, particularly if he doesn't understand a question or statement.
- Answer one question at a time.
- Recognize cultural differences in language.
- Avoid abstract questions.<sup>4</sup> Recognize that school-age children usually answer questions literally. *For example:* Q: Are you in school now? A: No. The child may be referring to where she is right now (the courtroom) instead of the broader question

of whether she attends school.

- Publicly praise the child's accomplishments.

### Observe the child's behavior and appearance

- Observe the child's interaction with caregivers, parents, and guardians.<sup>5</sup>
  - Does the child look to them for help, support, advice, etc.?
- Observe the child's physical appearance and health.
  - Is the child appropriately dressed?
  - Does the child look well-nourished?
  - Does the child have appropriate personal hygiene?
- Observe the child's body language.
  - Be mindful of signs that the child may be frustrated or overwhelmed.<sup>6</sup>

### Preparations for court appearance

- Ensure that your courtroom is child friendly.<sup>7</sup>
- Ensure all children are accompanied by a support person at the hearing such as a foster parent, CASA, mentor, coach, or other adult role model.
- Have the agency encourage the child to submit report cards, letters, drawings, or other age-appropriate materials periodically. Refer to anything previously submitted.
- Read anything that the child gives to the court while the child is present.
- Review the outcome of the hearing with the child and answer any questions (or ensure that someone else will do so).
- Ensure the child understands what was ordered and why.
- If age appropriate, ask the child what he wants to accomplish before the next hearing.

- Consult with the child and his caregiver when scheduling the next hearing so it does not interfere with the child's normal daily routine, including school.
- Keep a school district calendar on the bench to ensure there are no conflicts with state standardized tests.
- Thank the child for coming to court.
- Encourage the child to attend the next hearing.
- Ask the child whether he has any last questions, thoughts, or concerns.

### Possible questions to ask the child

- How old are you?
- What is your best friend's name?
- What do you like (or not like) about where you are staying now?
- Do you see your mom and dad?
- Do you miss anyone? Provide options, e.g., brothers, sisters, grandparents.
- Where do you go to school?
- What grade are you in?
- Who is your favorite teacher?
- Who takes you to school?
- Are you having any problems in school?
- Do you have a tutor?
- What do you like to do before and after school?

<sup>1</sup> This bench card was created to assist judges when a child is present in the courtroom. It does not include what information the judge should require from additional parties, such as a report from the child's therapist about the child's mental health status.

<sup>2</sup> The social worker or caregiver can provide the court with a picture.

<sup>3</sup> See Andrea Khoury, *With Me, Not Without Me: How to Involve Children in Court*, Child Law Practice, Vol. 26, No. 9 (November 2007).

<sup>4</sup> An example of an abstract question is "How well do you get along with your family?" For more information about questioning children, see Anne Graffam Walker, *Handbook on Questioning Children: A Linguistic Perspective* (ABA Center on Children and the Law 2d ed. 1999).

<sup>5</sup> Please note that some school-age children act out behaviorally with those they trust because they feel safe enough to express their stress, fear, or frustration. The child may also be testing limits. In addition, changes in a child's demeanor while answering questions may have several meanings. For example, a child could look to an adult for the answer because he is attached to that adult and wants to please him or her. On the other hand, the same action can mean that the child is afraid of the adult.

<sup>6</sup> Signs may include squirming, lying down, or fussing.

<sup>7</sup> It may be necessary to address issues related to the child's safety at the courthouse and the appropriateness of courtroom waiting areas. Judges may find it beneficial to have age-appropriate toys and books available.

# American Bar Association

## Model Act Governing the Representation of Children in Abuse, Neglect, and Dependency Proceedings

- Section 9: Participation in Proceedings
- [Link](#)

## Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases

- Section D: Hearings
- [Link](#)



**Best  
Practices &  
Resources**

**National Council of Juvenile and  
Family Court Judges (NCJFCJ)**

- **Children in Court Policy Statement**
- **Bench Cards**
- **Other Publications**
- **Enhanced Resources Guidelines**

## **NCJFCJ Policy Statement**

“It is the policy of the National Council of Juvenile and Family Court Judges that children of all ages should be present in court and attend each hearing, mediation, pretrial conference, and settlement conference unless the judge decides it is not safe or appropriate.”

# NCJFCJ Policy Statement

To support this critical practice, the NCJFCJ makes the following recommendations related to children's participation in dependency court:

- *Judges should seek and participate in training on how to best engage children in court.*
- *Courts should develop policies and protocols to ensure that children have the opportunity to attend all court events.*
- *Children should be parties to their cases and be appointed competent representation*
- *Children should receive meaningful notice of and preparation for hearings.*
- *When children are not present in court, the judge should ask why and make findings as to the reason the child is not present. If the judge does not find good cause for the child's absence, the case should be continued to an expedited time certain to secure the appearance of the child. The court should work with the agency and the caregivers to ensure the child has transportation to court.*

# NCJFCJ Policy Statement

“Children’s lives are turned upside down when they become involved in the child welfare system, most especially when they are placed in foster care. They often lose control and predictability over many facets of their day-to-day lives. Decisions are often made without their input. When court actions are filed, judges decide where the child will live temporarily and permanently, where the child will go to school, when the child will see his parents, siblings, and extended family, along with many other decisions about the child’s well-being. **Judges can empower children by ensuring every child has a voice in the decisions being made about and for them in dependency court.**

**When judges observe and interact with children in court, they are powerfully reminded how the young person’s life is being drastically affected. When children participate, judges receive evidence that may not otherwise be available to help them understand the child’s view about a variety of issues that directly affect their lives.”**

## NCJFCJ Bench Cards

Some available bench cards include:

- Trauma-Informed Courtroom Practices:  
A Bench Card for Judges
  - [Link](#)
- NCTSN Bench Card for the Trauma-  
Informed Judge
  - [Link](#)
- Military Families and the Courts – Bench  
Card Resource Packet
  - [Link](#)
- And more

# NCJFCJ Bench Cards

## Preventing Activations: The C.A.R.E.S. Courtroom Approach

**C**ommunicate with empathy and understanding

**A**sk simple, open-ended questions to ease tension

**R**espect the need for breaks to manage emotions

**E**ngage in cooperative dialogue, avoiding shame or blame

**S**how respect through body language and attentive gestures

## Examples of the C.A.R.E.S. Courtroom Approach

Inappropriate things to say/do	Appropriate things to say/do	Why it's important
Blaming: "What's wrong with you? You need to be locked up."	Empathy: "I'd like to understand the circumstances that led to court involvement, can you please explain?"	Blaming leads to trauma activation and deters compliance. Empathy makes a person feel connected and supported.
Interrupting: "I'm done, I've heard enough."	Attention: "What you have to say is important. Unfortunately we need to reschedule."	Acknowledging points of view and providing opportunities to be heard can calm the litigant's nervous system.
Indifference: "I've given you enough chances - I'm holding you in contempt."	Respect: "What barriers are preventing your compliance?"	Disrespect can drive negative behavior, whereas respect strengthens future compliance.

## Intervening when Trauma has been Activated: The RESPOND Approach

This approach provides a structured, empathetic way to handle situations where trauma has been activated, prioritizing the individual's well-being.

**R**ecognize the Signs: Identify symptoms of trauma activation

**E**xude Calm: Stay composed and use a calm tone

**S**uspend Proceedings: Take breaks to allow composure

**P**ractice De-Escalation: Speak gently and acknowledge emotions

**O**ffer Clear Guidance: Provide simple, straight forward instructions

**N**urture Emotional Safety: Create a supportive environment

**D**ouble-Check Readiness: Proceed cautiously, checking in periodically

# NCJFCJ Bench Cards

## NCTSN BENCH CARD FOR THE TRAUMA-INFORMED JUDGE

WWW.NCJFCJ.ORG

Research has conclusively demonstrated that court-involved children and adolescents present with extremely high rates of traumatic stress caused by their adverse life experiences. In the court setting, we may perceive these youth as inherently disrespectful, defiant, or antisocial, when, in fact, their disruptive behavior may be better understood in the context of traumatic stress disorders. These two Bench Cards provide judges with useful questions and guidelines to help them make decisions based on the emerging scientific findings in the traumatic stress field. These cards are part of a larger packet of materials about child and adolescent trauma available and downloadable from the [NCTSN Trauma-Informed Juvenile Justice System Resource Site](http://www.nctsn.org/trauma-informed-juvenile-justice-system-resource-site)\* and are best used with reference to those materials.

**NCJFCJ  
Other  
Publications**

[Four Ways That Courts Can Actively Engage Children and Youth Involved in Child Welfare Proceedings \(Link\)](#)

- 1) Use court hearings as opportunities to build relationships with children and youth.
- 2) Create a child-and-youth-friendly court environment.
- 3) Create opportunities to engage children and youth between court hearings.
- 4) Partner with people who have lived expertise to create a court process and an environment that promote success.

**NCJFCJ  
Other  
Publications**

**Seen, Heard, and Engaged: Children in  
Dependency Court Hearings (Link)**

**TABLE OF CONTENTS**

I. Introduction.....4

II. The Legal Framework Supporting Children in Court.....4

III. Research Related to Children in Court.....5

IV. Children in Court as a Best Practice.....5

V. Judicial Considerations for Bringing Children to Court.....7

VI. Children in Court Policy and Practice Recommendations.....11

VII. Conclusion.....18

Appendix A.....19

Judicial Bench Cards for Age-Appropriate Engagement of Children

Appendix B.....20

Resources

# NCJFCJ Enhanced Resources Guidelines

## Section II. L: Engaging Families and Children ([Link](#))

### ENGAGING CHILDREN

The meaningful participation of children and youth in court proceedings respects them as active participants in their own lives. While some may argue that attending court hearings is traumatic to children, it is important to remember that they have already lived through the trauma that brought them into care, and engaging them in planning their future and protecting their safety is empowering and critically important. Meaningful participation means taking into account children's wishes and feelings, including their perspective in all matters affecting them, cultivates an environment that welcomes and nurtures a child or youth's evolving developmental capacity, and is responsive to their needs, including any trauma history. Participation is a process, and children and youth will only be able to meaningfully participate in an environment that actively supports and encourages their ongoing involvement in both big and small decisions.

# NCJFCJ Enhanced Resources Guidelines

To support the participation of children and youth in dependency court, the following is recommended:

- Judges should seek and participate in training on how best to engage children in court.
- Courts should develop policies and protocols to ensure that children have the opportunity to attend all court events.
- Children should be parties to their cases and be appointed competent representation.
- Children should receive meaningful notice of and preparation for hearings.
- When children are not present in court, the judge should ask why and make findings as to why the child is not present. If the judge does not find good cause for the child's absence, the case should be continued to an expedited time-certain to secure the appearance of the child. The court should work with the agency and caregivers to ensure the child has transportation to court.
- Judges should encourage the use of family group decision-making conferences, pre-hearing and settlement conferences, and other practices which include the participation of children and youth in their jurisdiction. Judges should regularly inquire if children and youth are, in fact, participating in such practices.

## Best Practices & Resources

### Quality Improvement Center on Engaging Youth in Finding Permanency (QIC-EY)

- Training Opportunities
- Various Reports, Videos, Podcasts, and Other Resources
- [qic-ey.org](http://qic-ey.org)

The logo for QIC-EY is a teal-colored shape with a white outline, resembling a speech bubble or a stylized letter 'Q'. The text 'QIC-EY' is written in white, bold, sans-serif font inside the shape.

**QIC-EY**

Video – From Passenger to Pilot ([Link](#))

Free Training for Professionals ([Link](#))

## **About the Training**

---

Children and youth are experts about their own lives. They need to be engaged as partners, especially in decisions related to legal, cultural and relational permanency. This requires a paradigm shift for child welfare courts and legal professionals in terms of training, policy and practice.

The QIC-EY Child and Youth Engagement Online Training for Legal Professionals will help to ensure that children and youth can partner safely and effectively in shared decision-making.

To learn more about the training view the court training overview.

**Register & Take the Free Training**



**Best  
Practices &  
Resources**

**So much more...**

The logo for the National Association of Counsel for Children (NACC) is a teal-colored shape with a white outline. The shape is roughly rectangular with a pointed top-left corner and a small notch on the left side. The letters "NACC" are written in white, bold, sans-serif font in the center of the shape.

**NACC**

## National Association of Counsel for Children

- Recommendations for Legal Representation of Children and Youth in Neglect and Abuse Proceedings
  - Section IV: Ensure Opportunity for Full Participation
  - [Link](#)

## Youth with a Disability

### Guide to Disability Inclusive Language in Legal Settings

- Published by the Washington State Supreme Court Disability Justice Task Force
- Focuses on language and communications. Contains tons of useful information including a section specific to youth in court.

[Link](#)

## Youth with a Disability

“The words professionals use in hearings, case files, and interactions can either reinforce harmful stereotypes or create pathways for dignity and participation”

“Describing youth behavior using terms like ‘defiant’ or ‘non-compliant’ misinterprets what may be disability-related communication differences, trauma responses, or sensory distress. These labels frame behavior as intentional disobedience, rather than as signs of unmet support needs or difficulty self-regulating. Using neutral, descriptive language helps legal professionals interpret behavior in context and respond with appropriate accommodations or adjustments.”

## Youth with a Disability

“Many disabled youths in court have experienced trauma, including foster care placement, family separation, or institutionalization. Standard courtroom language, especially when directive, accusatory, or dismissive, can trigger fear, shame, or shutdown responses. Trauma-informed language focuses on emotional safety, patience, and validation, helping youth feel heard and reducing escalation. This approach supports engagement, trust, and more accurate communication.”

**“By using respectful, developmentally appropriate, and trauma-informed language, legal professionals help protect the rights of young people and create space for meaningful participation.”**

## Youth with Autism

### Supporting Individuals with Autism in Court: Tools and Strategies for Effective Support

- Published by the Washington State Supreme Court Disability Justice Task Force
- Contains tons of useful information including best practices, a quick reference sheet, a term glossary, and more.

[Link](#)

## Youth with Autism

“Trauma also impacts communication. Under stress, a person may lose access to verbal language, struggle to process questions, or exhibit unusual effects. **These are not signs of guilt or incompetence; instead, they indicate that the environment is inaccessible.**”

“Individuals with autism, like all people, deserve a legal system that recognizes them clearly, responds to their needs with integrity, and upholds their full humanity.”

# Youth with Autism

## Task Force's Best Practices

- Offer support persons or advocates who can help interpret and support the individual in real time.
- Create options for quiet waiting areas, sensory-friendly courtroom spaces, and remote appearances when possible.
- Allow for pauses, written responses, or alternative communication methods during proceedings.
- Avoid confrontational questioning styles when possible, especially for youth or trauma survivors.
- Provide training for judicial officers and court staff on trauma-informed, disability-aware practices.

**And More**

[Handbook on Questioning Children: A Linguistic Perspective](#)  
Anne Graffen Walker, PhD

DOJ Office for Victims of Crime – Child Victims and  
Witnesses Support Materials  
[Link](#)



**The Law**

**Protecting due process**

## Due Process

Children have constitutional due process rights surrounding their fundamental liberty interests at stake in the proceedings. *In re Dependency of M.L.W.*, 4 Wn.3d 53, 70 (2024); *In re Dependency of M.S.R.*, 174 Wn.2d 1, 20 (2012).

Fundamental interests protected by due process include the right to be free from harm, the right to family integrity with parents and siblings, and not being placed in unsafe environments “over which they have little voice or control.” *M.S.R.*

## Due Process

“Children have the right to freedom of personal choice in matters of family life—a fundamental liberty interest protected by the due process clause of the Fourteenth Amendment to the United States Constitution.” *In re Dependency of Lee*, 200 Wn. App. 414, 451 (2017)

The Washington State Supreme Court “recognize[s] and adhere[s] to the weight of authority that foster children have substantive due process rights the State is bound to respect.” *Braam v. State*, 150 Wn.2d 689, 700 (2003)

## Due Process

Attempts to infringe upon the child's due process rights require a Mathews analysis. *In re Dependency of E.H.*, 191 Wn.2d 872 (2018); *M.S.R.*

### Mathews 3 Part Balancing Test:

- 1) The individual interest at stake
- 2) The risk of error posed by the current procedure
- 3) The government's interest in maintaining the current procedure

*Mathews v. Eldridge*, 424 U.S. 319 (1976)

# Due Process

## The Private Interests

“The child's liberty interest in a dependency proceeding is very different from, but at least as great as, the parent's.”  
*M.S.R.*

The youth's interests are vast including:

- Procedural due process
  - Right to be present, right to be heard
- Substantive due process
  - Right to be free from harm, right to family integrity with parents and siblings, and more
- Right to counsel
  - Right to effective counsel, right to consult with counsel

## Due Process

### The Private Interests

- Copious statutory rights
  - RCW 13.34.020 (right to basic nurture, safe and permanent home, and speedy resolution); RCW 13.50.100 (confidentiality of records); RCW 13.34.060 (preferred placement with relative); RCW 13.34.070 (right to service of summons when aged 12 and older); RCW 74.13.631 (educational stability); RCW 13.34.138 (periodic review of child's status in care); RCW 13.34.136 (maximum contact with parents and siblings).
- An accurate decision by the court
  - “Because of the tremendous stakes,” this interest is “commanding.” “These private interests are enormous and weigh in favor of any reasonable error-reducing procedure.” *In re Welfare of M.B.*, 195 Wn.2d 859 (2020)

# Due Process

## The Private Interests

- The ultimate interest in their own life and future
  - “In a dependency or termination proceeding, the parent is at risk of losing the parent-child relationship, but the child is at risk of not only losing a parent but also relationships with sibling(s), grandparents, aunts, uncles, and other extended family.” *M.S.R.*
  - “Children who are removed from their parents' care face a loss of physical liberty and may be forced to change homes, schools, and care facilities. Such movement may cause children significant harm.” *Lee*

# Due Process

## The Risk of Error

The second *Mathews* factor is the risk of error “through the procedures used” and the probable value of substitute procedural safeguards.

Excluding children and youth increases the risk of error in numerous ways.

In dependency and termination proceedings “the risk of error is already significant...because they ‘employ imprecise substantive standards that leave determinations unusually open to the subjective values of the judge.’” *M.B.*

# Due Process

## The Risk of Error

- Denies the court access to information only the youth can provide. This includes any statements the youth may make directly to the court, non-verbal cues that can only be observed if the youth is present, and responses or insight the youth may have regarding the evidence and information presented by other parties.
  - The “potential for empathy and nuanced understanding is much greater in person-to-person communications.” *M.B.*
  - Excluding the youth further increases the “enormous power of the State to structure the evidence presented” by removing the fully informed input of others. *M.B.*
- Denies the youth their right to counsel. Our Supreme Court has stressed the importance of participants being able to testify and address the court in person, directly observe the proceedings, consult with their attorney, and assist counsel in responding to the arguments and evidence of other parties. *M.B.*

## Due Process

### The Risk of Error

Prior to exclusion, a court must fully consider alternatives. These might include:

- Use of a counselor to assist the youth in processing what happens in court
- Requiring parties to share any sensitive topics they plan to address before court so the youth's attorney and counselor can address them with the youth prior to the hearing
- Requiring written pleadings to minimize argument in court
- Providing access to a facility dog
- Allowing use of a comfort item or other age-appropriate items for the youth to engage with prior to, during, and after court
- Use of a signal the youth can give to indicate they would like a break or to step out of a hearing
- Ordering an alleged abuser to appear remotely
- Having the parties and judicial officers engage in training regarding children and youth in court
- And more

# Due Process

## The State's Interests

- The child's health, safety, and welfare
  - Remember that the data shows participation leads to better long-term outcomes
- A just an accurate decision
  - Remember that child participation increases the information the court has when making decisions

Therefore, the State must have more. There must be case specific evidence showing a substantial and particular harm the child will suffer by being physically present in the courtroom. As discussed, the youth will receive the information either way.

What is uniquely harmful about hearing it while sitting in a courtroom? And even if there is a harm, can it be properly mitigated absent full exclusion?

# Due Process

## Lay Opinions Aren't Sufficient

- The evidence of the harm and the causation showing necessary to overcome the child's rights cannot be satisfied by lay opinions.
- There must be strong evidence such as sworn expert testimony.
- Importantly, correlation does not equal causation.
  - As a hearing gets closer, a child is being contacted more by their attorney, the social worker, their GAL/CASA. Their parents and/or caregivers might be asking them more questions. There may be some DCYF meetings. The child may be learning about a new permanency plan, changes in visitation, changes in placement, updates about a sibling, and more.
  - Behavioral concerns before, during, or after hearings likely have nothing to do with being physically present at the hearing.
  - Exclusion from court wouldn't alleviate any of these concerns. But exclusion when a child wishes to be present might create a new harm.
- A court wouldn't exclude a parent because a party alleged court was upsetting for that parent. A child's liberty interest are "at least as great as" a parent's so it's not a valid basis to exclude a child either.

# Due Process

## A Best Interest Analysis Isn't Sufficient

- It's well established that *Mathews* is the test for Due Process.
- Best interest is not a test for protecting constitutional rights.
- It increases “the danger of improper biases... contaminating the decision-making process.” *In re Dependency of K.W.*, 199 Wn.2d 131, 156 (2022). The Supreme Court has warned that “the ‘best interests of the child’ standard is susceptible to class- and race-based biases.” *K.W.*

# Due Process

## Safeguards

If exclusion occurs, the court must consider and implement all necessary safeguards. These likely include:

- Exclusion done with extreme tailoring to ensure minimal due process infringement with removal only for any portions of a hearing where absolutely necessary to prevent a documented and specific harm.
- Allowing breaks for youth's counsel to consult with their client before, during, and after the exclusion.
  - This highlights a key flaw in the idea of excluding children to protect them from upsetting information.

## Excluding the Public

RCW 13.34.115 - Hearings—Public excluded when in the best interests of the child—Notes and records—Video recordings.

(1) All hearings shall be public, and conducted at any time or place within the limits of the county, except if the judge finds that excluding the public is in the best interests of the child.

(2) Either parent, or the child's attorney or guardian ad litem, may move to close a hearing at any time. If the judge finds that it is in the best interests of the child the court shall exclude the public.

(3) If the public is excluded from the hearing, the following people may attend the closed hearing unless the judge finds it is not in the best interests of the child:

(a) The child's relatives;

(b) The child's foster parents if the child resides in foster care; and

(c) Any person requested by the parent.

...

## Excluding the Public

Closure to the public under RCW 13.34.115 presumably requires an Ishikawa analysis in addition to the best interest finding. *In re Dependency of A.M.*, 2014 Wash. App. LEXIS 2910 (2014) (Unpublished) (citing *In re Det. of D.F.F.*, 172 Wn.2d 37 (2011)).

*Seattle Times Co. v. Ishikawa*, 97 Wn.2d 30 (1982).

**And More**

Many other accommodations and their legal basis are discussed in Part 3 of the Children In Court Training Series.



**Making  
Improvements**

What can you do to help children & youth?

# Lived Experts

---

## Second Video:

- After the initial question set was answered, follow up questions were asked and further discussions were had with the lived experts
- This video clips together those discussions with each expert

# Video Slide

## Trainings

Keep learning and growing. Seek out chances to learn more.

We all have a role to play in improving the experiences of children and youth – Judges, children’s attorneys, parents’ attorneys, AAGs, social workers, GAL/CASAs, caregivers, and everyone in and outside of court.

## Preparation For Court

Proper preparation can mitigate enormous amounts of fear and anxiety.

There should be no surprises in the courtroom.

## Preparation For Court

### Child's Counsel or Social Worker & GAL/CASA if there is no child's counsel

#### The basics:

- Who will be at the hearing?
- Where does everyone sit?
- Who sits next to them?
- What is an attorney, judge, court clerk, etc.?
- What does the rest of the courthouse look like?
- What is it like going through court security?
- Where will they wait?
- Who will wait with them?
- Who is taking them to court?
- How long will it take?
- Will they miss school?

## Preparation For Court

### Child's Counsel or Social Worker & GAL/CASA if there is no child's counsel

#### The process:

- What will be discussed at the hearing?
- Who talks first?
- Will they get to talk to the judge?
- Do they have to talk to the judge if they don't want to?
- How do they know when it is their turn?
- How do they know when the hearing is over?
- What happens after the hearing is over?
- Where do they go when the hearing is over?
- Will the judge decide at the hearing or later?
- Share the plan for debriefing after court.

## Preparation For Court

### Child's Counsel or Social Worker & GAL/CASA if there is no child's counsel

#### Their needs:

- Do they have a toy or other item they would like to take?
- Is there a specific person they want there with them?
- Is there anything else that would make them more comfortable?
- Would they prefer to appear via video if available?
- If they don't want to talk in court, do they want to write something to give to the judge?
- How would they like to let people know if they need a break?

## Preparation For Court

### Child's Counsel or Social Worker & GAL/CASA if there is no child's counsel

#### Tasks & Considerations:

- Do you need a motion for an accommodation?
- Is there a need for some service to help the child, such as counseling?
  - NOTE: An attorney would need the client's consent/direction to seek services.
- Are any meetings needed prior to court?
- Can you arrange for a facility dog?
- Is a continuance needed to allow child presence?
- Does transportation need to be arranged?

# Preparation For Court

## All Parties

### Tasks & Considerations:

- Share information/issues early so that they can be discussed with the child prior to the hearing.
- Can anything be resolved prior to court?
- Inquire if the child plans to attend the hearing.
- Consider written filings to reduce in court discussions of difficult subjects.
- Could a visit be scheduled for before/after court?

# Preparation For Court

## The Court

### Tasks & Considerations:

- Are any orders needed to ensure full preparation?
- Are any other orders needed prior to the hearing?
- Be prepared to engage the child in an age-appropriate and trauma informed manner. Review bench cards.
- If the child does not have an attorney, should one be appointed?

### Broader Considerations:

- Are court spaces welcoming and child friendly?
- What steps could be taken to make court spaces more welcoming?
- Are court schedules conducive to child participation?

## Engaging During Court

Children and youth must be treated as equal and active participants both in and outside of court.

## Engaging During Court

### Child's Counsel or Social Worker & GAL/CASA if there is no child's counsel

#### Tasks & Considerations:

- Ensure safety & comfort – Check in, ask if they are comfortable, do they need anything, etc.
  - Consider requesting closing the hearing.
- Watch for any signal or indication they need a break or are becoming overwhelmed.
- Be prepared to make objections.
  - Are new issues/information being raised?
  - Harassing behavior.
  - Is an accommodation or other order being violated?

# Engaging During Court

## All Parties

### Tasks & Considerations:

- Be respectful and mindful of who is there.
- Keep language simple. Avoid legalese & acronyms.
- Make efforts to avoid behavior that could harm reunification efforts or a child's relationship with their caregiver.
- If there is new information that must be shared, ask for a recess to share the information with the parties first or seek a continuance.

## Engaging During Court

## The Court

### Tasks & Considerations:

- Greet the child by name.
- Use a child's preferred name and pronouns.
- Ask the child questions about school, their interests, etc.
- Praise the child's accomplishments.
- Let the child know they don't have to speak or can speak through counsel if they wish.
- Keep questions simple and one topic at a time.
- Allow the child to ask questions.
- Ensure any accommodations or other orders are adhered to.
- Liberally grant recesses or continuances as necessary for new information or consultations with the child.

## Engaging During Court

### The Court

#### Broader Considerations:

- If a child isn't present, ask why. Ensure they were given the option to attend.
- Should an accommodation or other order that has not been requested be considered?
- Enquire if counseling or another service is appropriate.
- Does the court need to order written filings or that meetings occur prior to future hearings?
- Ensure the next scheduled hearing date/time best accommodates the child's attendance.

## **Debriefing After Court**

Meet with children as immediately after the hearing as possible to confirm their understanding of what occurred.

## Debriefing After Court

### Child's Counsel or Social Worker & GAL/CASA if there is no child's counsel

#### Tasks & Considerations:

- Meet immediately after the hearing if possible.
- See if there are any immediate support needs.
- Ask the child for their understanding of what happened at the hearing.
- Provide any corrected information, fill in any gaps, provide context, etc.
- Explain any court orders.
- Discuss next steps or other follow up.
- Ensure continued support needs will be met.
- Seek feedback that can inform needs and supports for future hearings.
- Discuss when you will meet next.

## Debriefing After Court

### The Court

#### Tasks & Considerations:

- Allow counsel and others time between hearings for immediate debriefing.

#### Broader Considerations:

- Are there places in the courthouse that allow for immediate debriefing/meetings?
- Are court hearings/schedules conducive to meetings after hearings?



**Thank you!**

[Bret.Smith@ocla.wa.gov](mailto:Bret.Smith@ocla.wa.gov)