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Keeping Which Kids Safe?

A Working Paper on Washington's Fragmented Child Safety Architecture

Executive Summary

Washington doesn't have a child-safety system. It has a dozen of them, stapled together, each with its own definition of danger, its own budget, its own courthouse, and its own advocacy group defending its turf. A child’s odds of getting help depends less on how much danger they're in than on which door they happened to walk through.

The Keeping Families Together Act and the Keeping Kids Safe campaign have rightly focused attention on fentanyl-exposed infants and unsafe reunifications in dependency court. The same legislature that's furious about a baby dying after reunification has, in the room next door, largely outsourced the safety of kids in contested abusive custody cases to whichever parent can afford to prove it or captures the narrative. Same state, same constitutional obligation, wildly different urgency.

This paper documents where that difference in urgency actually lives. Funding runs in opposite directions: the state pays to investigate a dependency case while a family court parent pays out of pocket for the same work with little recourse when the process is abused. Dependency court has a legal duty to revisit bad decisions that family court doesn't. A state agency can be sued when dependency fails a child, but there's a near-total absence of accountability when family court does. Normalcy standards, covering therapy, an IEP, or a sport, are guaranteed by statute in state custody and left to whichever parent(s) holds decision making authority everywhere else. The same distribution problem recurs outside the courtroom, too: Washington often knows what a good intervention looks like, but geography and custody/guardianship arrangement both determine who can actually reach it.

None of this should be measured against whether a child survives to eighteen. Adverse Childhood Experiences research shows that unaddressed harm resurfaces for decades as elevated disease, mental illness, and instability. None are an argument for more state authority over ordinary families. It's an argument that once Washington has already taken on the question of whether a child is safe, through a report, a case, or a court's own "high conflict" label, it owes that child the same seriousness and resources no matter which door they walked through.

The Keeping Families Together Act Is the Symptom, Not the Disease

HB 1227 passed in 2021 and took effect in July 2023. It tightened the standard for removing a child from a home, requiring courts to find imminent physical harm, a causal link between home conditions and that harm, and consideration of what services short of removal might work [1]. InvestigateWest[2] and the Washington State Law Library[3] covered the debate as it happened.

Then came the fentanyl deaths, and the Keeping Kids Safe campaign built real momentum around a simple, hard-to-argue-with idea: government shouldn't return a child to a home where the danger was foreseeable[4]. Legislators are now pushing to amend the framework again in response[5]. That is a valid mission.

Foreseeable danger doesn't stop being foreseeable when a child's case lands in family court instead of dependency court,but that's exactly where the campaign's energy stops.

The Child Across the Hall

Start with who's actually in the room.

Dependency court is the state against the parents on behalf of the child. Every party at that table is a state actor or state-funded: DCYF, the Assistant Attorney General, appointed defense counsel, a CASA or attorney for the child. King County's own materials describe a Family Treatment Court model built around exactly this; an interdisciplinary team including the parent's attorney, the AAG, a social worker, a substance-use counselor, the child's representative, a treatment specialist, and the judge, all assembled around one family[6]. It's structurally built to ask one question, Is this kid safe?, and everyone in the room is paid to answer that question.

Family court is a different animal entirely. It's parent against parent. The child isn't a party. Nobody in that room is there specifically to represent the state's interest in the kid's safety, because the state isn't a party either; it's refereeing a private dispute.

That distinction is fine up until the dispute stops being about parenting time and becomes about danger. Washington's own courts have a name for cases that escalate this way–*high conflict*. It's a useful term administratively. It flags a case that's going to eat calendar time, but "high conflict" is also doing something more insidious– it describes an abuse dynamic in the vocabulary of a scheduling problem. National research on custody evaluators and family court professionals, including a Department of Justice-funded review by Saunders and colleagues, has repeatedly found that evaluators and judges often under-weigh documented domestic violence and coercive control, and are more receptive to counter-claims of parental alienation, and in WA its coined Abusive Use of Conflict, than to the underlying safety allegation[7] [8]. Run the identical fact pattern through a dependency framework, with different RCWs, different evidentiary thresholds, and a different due-process posture, and it's far more likely to be named for what it is.

This produces the paper's sharpest contradiction. In dependency court, a parent who protects a child from fentanyl, from active addiction, from an abusive person in the household who is not the child's other parent is treated as exactly what they are: protective, and rightly credited for it. In family court, when the parent raising the alarm is doing so about the other legal parent, the same protective instinct is frequently read by the court as uncooperative, gatekeeping, restrictive, obstructive, abusive use of conflict, or alienating. The parent who says "something is wrong here" can lose parenting time, decision-making authority, or credibility with the court, for raising the same category of concern that would make them a hero in Dependency Court down the hall.

This isn't an abstraction about two different court systems in two different buildings. In many Washington counties, it is literally, the same judge: dependency calendar in the morning and family law calendar in the afternoon–same hallway, same robe. One framework calls a protective parent a hero. The other can call the same behavior a problem to be managed. That's not a difference in facts. It's a difference in which rules the judge is required to apply to two structurally different courtrooms.

Child Safety Has a Paywall

Now, follow the money, because it runs in opposite directions in these two rooms.

In dependency court, Washington pays out. The state funds the investigation, the attorneys, the evaluations, the treatment referrals, the case management. The public absorbs the cost of finding out whether a child is safe.

In family court, the public pays in through private litigants writing checks for the same category of work. GALs, parenting evaluators, forensic psychologists, discovery, depositions, motions practice. If dependency court is a state-funded-fact-finding operation, family court is a pay-to-play version of the identical question, and the parent that runs out of money or that raises safety concerns doesn't get a cheaper version of the truth; they get less of it.

There's a second layer worthy of discussion. Washington, like most states, recognizes an absolute litigation privilege, rooted in cases like Demopolis v. Peoples National Bank of Washington, that shields statements made in the course of a judicial proceeding from defamation liability[9]. That privilege exists for a legitimate reason, in that litigants and lawyers need to be able to make their case without a second lawsuit over every sentence. But paired with a billable-hour litigation model, it also means there's very little downside to filing motion after motion, allegation after allegation, in a system that has no equivalent to dependency's built-in interest in resolution. This isn't an accusation that family law attorneys generally act in bad faith. It's that the incentive structure doesn't punish the ones who do, and the child pays for that structure whether or not any individual lawyer is one of them.

There's a third layer worth naming. When a parent believes their own or the opposing attorney lied to the court, the formal remedy, a bar complaint, rarely produces anything. WSBA's own

2024 discipline report shows 1,822 grievances filed against Washington attorneys that year, and 51 resulting public disciplinary actions, equating to roughly three grievances in a hundred producing any public consequence[26]. That's not proof of bias in any individual case. Bar discipline is built to address a narrow category of provable ethical violations, not to referee who was more truthful in representing a child's safety, and most grievances are dismissed for exactly that reason. This means the one public accountability mechanism a family court litigant can reach on their own, without hiring another lawyer, resolves in their favor at a rate close to zero. Paired with the litigation privilege discussed above, the practical result is the same: a family court parent has very little recourse against bad-faith conduct in their case, through the courts or through the bar, and the child's safety question sits below that gap the whole time.

Here is what makes this argument harder to wave off as unrealistic: Washington already runs a version of the state-funded, no-lawyer-required model inside family court itself. When a child support order meets specific criteria (the order is at least 35 months old and the family receives DCS services or public assistance, the order allows more frequent review, or there has been a real, quantifiable change in circumstances), the Division of Child Support may step in and handle the modification[10]. Neither parent needs to hire an attorney. As Pierce County's own Family Support Division states plainly, the assigned attorney "does not represent individuals in child support cases,"[11] they represent the state's interest in getting the number right, not either parent's position. And this happens on the same family law calendar, in front of the same judges, as every contested custody case.

The objection "family court can't work like dependency court" doesn't hold up. Washington has already built the infrastructure: a state actor who shows up, represents an interest independent of either parent, and doesn't require the family to hire a lawyer at $350-$700 dollars an hour to get an accurate answer, and applied it to child support math. It has simply never extended that model to the question of whether the child is safe, which is a stranger set of priorities than it looks like on paper.

Honest framing isn't only about which kids get kept safe. It's also which system gets paid, and by whom, to answer the same question: one funded by the public with an interest in closing the case safely, the other funded by the family with no structural interest in closing anything, even when safety is in question.

Two Different Duties to Look Again

This question doesn't get asked enough: What happens after the first decision?

Dependency court doesn't get to set a plan and walk away. RCW 13.34.145 requires permanency planning hearings on a fixed timeline and ongoing review[12], and King County's own dependency review-hearing benchbook walks through the recurring obligation[13] If the plan isn't working, the court has to come back and look again. That's not optional.

Family court has no equivalent obligation. Once a parenting plan is entered, RCW 26.09.260 requires a party seeking to reopen it to show a substantial change in circumstances, an intentional high bar built to protect finality and keep parents from relitigating every disagreement[14]. That's a reasonable policy goal in an ordinary custody dispute. It's a much less reasonable outcome when the original plan turns out to have gotten something dangerous wrong.

There's also a less charitable read of family court's reluctance to revisit a case, and it deserves airing alongside the finality argument. It isn't only about money. Often it isn't about money at all. Once a judge has heard a case and formed a narrative about which parent is credible and which is the problem, that narrative becomes sticky, and asking the same judge to revisit it later isn't just asking them to weigh new facts, it's implicitly asking them to admit the original read was wrong. Judicial decision-making research, most notably Guthrie, Rachlinski, and Wistrich's "Inside the Judicial Mind," has documented that judges are subject to the same anchoring and confirmation biases as everyone else, despite training and good faith[15] To be precise about what that supports and what it doesn't: the research establishes that judges anchor on early information generally. Literature backed mechanisms for something family law practitioners describe constantly say once a case's narrative sets, getting a court to revisit it, even when new evidence of danger emerges, is an uphill fight regardless of the merits.

Put the two duties-to-revisit problems together and you get a compounding effect. Family court already has a higher legal bar to reopen a case than dependency court does. Layer ordinary human belief-perseverance on top of that legal bar, and the system doesn't just decline to revisit bad decisions as a matter of policy. It may be structurally resistant to recognizing them as bad in the first place.

The Missing Defendant

There's one more asymmetry that ties the whole architecture together, and it's the one with a dollar sign attached.

Dependency and juvenile proceedings run through the Department of Children, Youth, and Families, (DCYF), a state agency. DCYF caseworkers investigate, supervise, and make placement decisions, of which none are a judicial act. Its ordinary agency conduct, meaning when it's negligent, Washington can be sued for it under the same tort principles that apply to any state agency. Washington state’s tort liability hit $502 million for the year ending June 2025, up from $72 million six years earlier. Reporting attributes most of that growth to DCYF claims, specifically alongside other categories like prison deaths and juvenile-detention abuse claims[16]. Individual settlements tell the same story: $80 million for two injured siblings,[17] $79 million for two Pierce County kids gravely hurt before their adoptions were finalized[18], $19.3 million for a foster child left blind and quadriplegic after a beating[19], and separate settlements of $18 million[20] and $3.25 million[21] in other abuse cases. It is expensive, but it also real accountability and a financial consequence that shows up in a budget hearing and forces the legislature to pay attention.

Family court has no equivalent exposure, and not because judges there are somehow more careful. Judges in both courtrooms have the same absolute immunity for judicial acts. That was never the difference. The difference is that family court's fact-finding mission isn't done by a state agency. It's done by privately retained Parent Coordinator, a Reunification Therapist, GALs and evaluators, and Washington courts extend those roles quasi-judicial immunity for anything done within their appointed function, stripped only in the rare case where a GAL acts entirely outside their statutory role, a narrow needle to thread and not a path most families can realistically navigate[22].

When dependency court gets a safety call wrong, there's a defendant with a budget line the legislature has to look at every year. When family court gets a safety call wrong, there's no equivalent defendant at all: no agency, no line item, no annual reckoning, and effectively no record. One system's failures show up as a number the state has to explain. The other system's failures show up the way the CDC's own Adverse Childhood Experiences research says they will: as a lifetime of elevated risk for chronic disease, depression, and unstable work and relationships, carried quietly into adulthood by a kid the state did not have had to write a check for. Nationally, the CDC attributes an estimated $14.1 trillion a year in downstream cost to ACE-related health consequences. Washington just never has to put that number in a budget hearing[27].

What Counts as a Childhood

The differentiation runs all the way down to the ordinary things that make a childhood a childhood, rather than just a guardianship or custody arrangement being managed.

Washington has actually legislated this for foster kids. RCW 74.13.710 adopts a reasonable and prudent parent standard, written specifically to make sure kids in out-of-home care get to do normal childhood things (sports, sleepovers, field trips) without a caseworker having to sign off on every practice[23]. The state made a deliberate choice deeming normalcy as part of safety, not a luxury, and it wrote that into statute for the children in its direct custody.

No equivalent standard exists for children in family court. Whether an IEP gets followed, whether therapy continues, whether dental visits happen, whether a child gets to play the sport or take the lesson,none of that is a legal mandate. It's whatever the parent with decision making authority decides. In a genuinely high-conflict case, those ordinary things can become leverage for power dynamics and be considered a form of control exercised through a child's schedule rather than a household, also known as post separation abuse.

In dependency court, normalcy is embraced. The state wrote a statute about it. In family court, it's discretionary and dependent entirely on which parent holds the power. Same state, same category of child, one guaranteed by law and one left to whoever is the judicially favored parent.

Intervention by Geography, and by Custody Arrangement

Washington's fragmentation is not limited to courts. It also appears in the availability of services, and even where a good service exists, in who can actually reach it.

King County's Step-Up program works with adolescents engaging in violent or abusive behavior toward family members, addressing accountability, emotional regulation, safety planning, and communication[24]. Families can self-refer, or get referred by schools, police, counselors, family court, or juvenile court. It doesn't require the family to fit neatly into one jurisdictional box[24]. Its companion program, FIRS, goes further still, offering free in-home counseling, mental health and substance-use services, and an assigned social worker and probation counselor[25].

That's the model. That's what cross jurisdictional design looks like when someone actually builds it on purpose.

A struggling family in Renton and a struggling family in a rural county aren't asking a different policy question just because one happens to live near a well-funded pilot program. If the state knows what works and only some kids can reach it, that's a distribution problem, not a treatment gap, and distribution problems are solvable if anyone's actually assigned to solve them.

Geography isn't the only gate. Custody arrangement may be worse, because it's not a funding problem. It's a design problem that falls hardest on exactly the families the program exists for. In practice, Step-Up's intake is built around a referring household. The program works with the youth and the caregiver who has them, so the intervention has somewhere to attach. This isn't spelled out in King County's public program materials the way the referral pathways are. It reflects how the program operates in practice rather than a documented published threshold, so it should be treated as practice, not statute.

The practical effect is that a youth spending most of their time with the parent, the program would be considered unsafe, or the source of the concerning dynamic falls largely outside the program's functional reach. There isn't enough time in the safe household for the intervention to take hold. A program built specifically for family violence works best precisely when the controlling or unsafe parent already has less power in the arrangement, and works worst in exactly the cases where that parent has majority time and the leverage that comes with it. If that's accurate, it isn't a critique of Step-Up's design so much as a flag that eligibility built around household majority time needs a parallel pathway for kids who spend most of their time in the household the program is trying to intervene on.

The same distribution problem shows up in developmental disability services, behavioral health treatment, respite care, and substance-use treatment. Washington frequently knows what intervention can look like. The problem is often getting that intervention to the child.

Dependency has a built-in failsafe here. Once DCYF and the court are involved, service delivery isn't optional. Case plans, the interdisciplinary teams described earlier, and the mandatory review hearings under RCW 13.34.145 exist specifically to make sure a child gets the therapy, the evaluation, or the placement the case plan calls for. Nobody has to sue anybody to make that happen; it's built into the structure.

Family court has no equivalent failsafe, because a parenting plan's decision-making provisions (which parent controls education and non-emergency health care decisions under RCW 26.09.184) can just as easily be used to block a diagnosis or a treatment as to authorize one. If a parent with sole decision-making authority refuses to consent to an evaluation, refuses to accept a diagnosis, or simply declines to pursue therapy the child needs, the other parent's only option is to go back to court and ask a judge to override that authority, which means another motion, often another evaluator, and often another attorney. Practitioners in this area routinely put the cost of forcing a single contested treatment decision through family court at somewhere around $5-10k, or more. Whatever the exact number, the mechanism is the point. In dependency court, getting a child into treatment is the default the system is built around. In family court, it can be a line item a safe parent has to litigate their way to, one motion at a time.

The Children Between Early Intervention and Crisis

Washington is genuinely good at the front end. Kindering, Mary Bridge Tacoma, Spokane County Child Development Services, Seattle Children's Hospital, and many other local county resources provide real infrastructure for toddlers with developmental delays.

Then the kid turns three, ages out of that infrastructure, and lands in a maze of school districts, IEPs, Medicaid, DDA waitlists, and private therapists with six-month waits. The disability doesn't go away. The family's need doesn't go away. What goes away is the coordinated system around them.

Left alone long enough, small problems compound on a predictable schedule. Undiagnosed needs become school avoidance, school avoidance becomes isolation, isolation becomes a behavioral crisis, a behavioral crisis becomes a police call. At that point, the state meets the same kid again, through a far more expensive, and far more adversarial system than the one that could have helped years earlier.

If you're running a business and your intake costs ten times more because you refused to invest in prevention, somebody gets fired for that. In government, it just becomes next year's budget request.

The Children We Notice After the Outcome

The failures that get real scrutiny are almost always retrospective. A child dies. A teenager commits a serious act of violence. A former foster kid ends up homeless or incarcerated. Only then does anyone reconstruct the timeline, and the timeline almost always has warning signs in it. Parents who asked for help. High ACE score. A school that flagged something. A cop who responded twice. A therapist who recommended a service that never materialized because of a waitlist, funding gap, or parent denial.

The uncomfortable part is that every single agency in that timeline can point to its own file and say it followed procedure. The child can still be failed. Those two things are not in tension. They

are the actual mechanism. A system built out of procedurally compliant parts can produce a catastrophic whole, and if you only audit the parts, you will never catch it.

Aging Out Does Not Mean the Job Was Finished

When the state removes a kid from a family or safe parent, it's making an implicit promise: we can do better than this home could. That promise doesn't expire on a birthday.

A foster kid who ages out into housing instability, barely a high school diploma, no job training, and no adult in their life who'll take a 2 a.m. phone call is not a success story just because nobody died on our watch. If we're going to claim credit for removing a child to keep them safe, we have to be willing to grade ourselves on where that landed, not just on whether they survived to eighteen.

Selective Scrutiny

Parental-rights groups fight for select parental rights. DV organizations fight domestic violence protections. Disability advocates fight for services. Foster-care groups fight for foster kids. Every one of them is probably right about their cause. None of them are looking at the child as a whole person moving through multiple systems over time, because that's not their job, and frankly, it's nobody's job.

Fentanyl exposed infants got a campaign, media coverage, and legislative spokespeople. A gradeschool kid self harming that can't get behavioral health services gets nothing comparable, and not because their situation is less urgent. Political and media attention is following selective advocacy infrastructure, not actual risk. That's a real problem for a state that claims child safety as a first principle.

The Missing Architecture

Look at the list of things where Washington differs, system to system: definitions of danger, evidentiary standards, funding, access to lawyers and experts, treatment availability, oversight, outcome tracking, liability exposure, and political constituencies. Look at that list long enough and a pattern shows up that isn't visible from inside any single agency.

Nobody owns the seams. Nobody's job is to ask what happens to a child when dependency becomes a family court case. Nobody tracks whether an untreated disability at age seven shows up as a juvenile referral at fifteen. Nobody compares outcomes across counties with wildly different service capacity. Nobody follows a kid for five years after they age out of any of these systems.

In a company, that's the person whose title is something like "head of customer experience": the one job that exists purely to notice when a customer falls through the cracks or marketing

funnel, between departments that are each optimizing for their own metrics. Washington's child safety systems don't have that role. They have a dozen department heads, each incentivized to keep their own numbers clean, and nobody whose job depends on the kid's actual outcome across all of them.

From Program Accountability to Child Outcome Accountability

Every agency in this paper can hit its own compliance targets and still lose the kid. DCYF can follow its statute. A family court can enter a legally sound parenting plan. A school can satisfy an IEP. A behavioral health provider can close a file in good standing. None of that tells you whether the child is actually okay when there are parental conflicts: either with each other, or with the state.

So the metric has to change. Not "did the agency follow its process" but: “was the danger foreseeable”, “was there an actual intervention available”, “could the child reach it”, “did money or geography decide whether the court got good evidence”, and, the one that matters most, “what does this child's life look like five years from now?”

That's a harder thing to measure than compliance. It's also the only measurement that means anything.

Keeping Which Kids Safe?

The Keeping Kids Safe campaign is right that says a child shouldn't die because a system ignores a foreseeable risk. That principle doesn't have an asterisk that says *"applies only to fentanyl cases currently under dependency court umbrella."* It applies to every kid Washington has authority over, full stop.

A functioning system doesn't just ask whether it prevented a death. It asks whether it saw the danger coming, whether help existed, whether that help actually reached the child in time, and whether the kid came out the other side equipped to build an adult life, not just alive, but intact.

"Intact" isn't a vague word here, and Washington doesn't have to invent a definition. The CDC's Adverse Childhood Experiences research already supplies one–unaddressed childhood adversity doesn't stay in childhood. It shows up decades later as a measurably elevated risk of chronic disease, depression, addiction, and unstable work and relationships, and the agency tracking it puts the downstream national cost at $14.1 trillion a year[27].

Washington doesn't currently ask that question about a single child moving through family court, and it barely asks it in dependency court either. Both systems measure themselves against their respective policies and “rules”, nor whether a child survived, and not against the ACE score they helped run up along the way. If the state is going to take credit for keeping a child safe, the ACE

framework is the only honest place to check that work, not at eighteen, but years later, when the bill for getting it wrong actually comes due.

Washington isn't short on programs. It's short on someone whose job is the whole kid, across the whole system, for the whole of childhood, when the state involves itself in the child's life.

Until that job exists, the honest answer to the question, "Is Washington keeping kids safe?" depends on which kid you mean.

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