

PRACTICE ADVISORY | 09/01/2022 (updated) | D'Adre Cunningham
Family Law Assistance for Indigent Parents in Washington

Introduction. Some indigent parents who are represented by court appointed attorneys also have an open child custody proceeding or may need to start a child custody proceeding in a Washington State superior court. If the parent has received notice of a child custody case that has not been filed by DCYF or CPS, it is most likely a *family law proceeding*. Washington superior courts hear several types of child custody proceedings, including dissolution cases or parenting plan cases (case type 3), parentage or child support actions (case type 4), adoption cases (case type 5), and the new Title 11 minor guardianship cases.¹ This practice advisory is for attorneys, parent advocates, and other legal professionals assisting indigent parents in proceedings who also have or need to start a child custody proceeding in a Washington State superior court.

No right to counsel for indigent parents at public expense. Indigent parents are not entitled to counsel at public expense in most family law proceedings.² Therefore, most parents must litigate child custody proceedings *pro se*, without an attorney. Many civil legal aid providers provide legal assistance but not legal representation. There are a handful of providers that provide free legal assistance or volunteer staffed legal representation to parents in specific counties. *See* list linked below.

Free legal representation while incarcerated is not readily available. Northwest Justice Project (NJP) is Washington's primary civil legal aid organization. NJP does provide legal representation to all individuals in child custody proceedings. People who they choose not to represent are still typically eligible to receive legal assistance. However, federally funded civil legal aid providers, like NJP, are banned by federal law from providing legal representation to incarcerated people.³ Once an indigent parent is in work education release, electronic home monitoring, or released even if on conditions like probation, community custody or CCAP, they are eligible to receive legal assistance from federally funded civil legal aid providers, including family law service providers.

The following resources are commonly accessed by pro se litigants for legal assistance in family law cases:

- To screen for legal representation from NJP: <https://nwjustice.org/get-legal-help>
- To screen at NJP as a recently released mother: <https://nwjustice.org/specialized-units#7>
- NJP's online pro se legal assistance packets: <https://www.washingtonlawhelp.org/>
- County facilitator *pro se* assistance (by appointment and for a fee): https://www.courts.wa.gov/committee/?fa=committee.home&committee_id=108
- To find volunteer family law legal service providers (and others) by county: <https://www.wsba.org/connect-serve/volunteer-opportunities/psp/qualified-legal-service-providers>

¹ Please see IPP resources webpage about WA's minor guardianship law: <https://defensenet.org/case-support/incarcerated-parents-project/ipp-legal-resources/making-caregiving-arrangements-for-children/>.

² *King v. King*, 162 Wn.2d 378, 398, 174 P.3d 659, 669 (2007); *but see In re Dependency of E.H.*, 158 Wn. App. 757, 768, 243 P.3d 160, 165 (2010) (“...the nonparental custody action is inextricably linked with the dependency issue of whether EH's return home to either parent is appropriate.”); Please see IPP practice advisory “[Right to Counsel at Public Expense in WA State in Certain Child Custody Cases](#)” for more information.

³ *See* Public Law 104-134, 110 Stat. 1321-53, §504 (a)(15), <https://www.govinfo.gov/content/pkg/PLAW-104publ134/pdf/PLAW-104publ134.pdf>; 45 C.F.R. 1637.3, <https://www.law.cornell.edu/cfr/text/45/1637.3>. Work release, EHM or parole or probation or day reporting are not restricted statuses. LSC Program Letter 15-5 (Nov. 19 2015), <https://www.lsc.gov/program-letter-15-5>.