



## Agency Recommendation Summary

The Department of Children, Youth, and Families (DCYF) requests \$3,596,000 (\$3,420,000 General Fund-State) and 9.0 full time equivalent staff (FTE) in the 2024 Supplemental Budget to provide hearings for individuals under age twenty-five that are transferring to the Department of Corrections (DOC). This request is made as the result of a lawsuit against the agency

## Fiscal Summary

Fiscal Summary <i>Dollars in Thousands</i>	Fiscal Years		Biennial	Fiscal Years		Biennial
	2024	2025	2023-25	2026	2027	2025-27
<b>Staffing</b>						
FTEs	7.0	11.0	9.0	9.0	9.0	9.0
<b>Operating Expenditures</b>						
Fund 001 - 1	\$1,593	\$1,827	\$3,420	\$1,324	\$1,324	\$2,648
Fund 001 - A	\$98	\$60	\$158	\$30	\$30	\$60
Fund 001 - C	\$13	\$5	\$18	\$1	\$1	\$2
Total Expenditures	\$1,704	\$1,892	\$3,596	\$1,355	\$1,355	\$2,710
<b>Revenue</b>						
001 - 0383	\$111	\$65	\$176	\$31	\$31	\$62
Total Revenue	\$111	\$65	\$176	\$31	\$31	\$62

## Decision Package Description

DCYF requests funding and personnel to form a new unit to provide required hearings for individuals in Juvenile Rehabilitation Administration (JRA) institutions and facilities.

In October 2022, Columbia Legal Services brought a lawsuit against DCYF on behalf of individuals under the age of twenty-five that have been transferred from DCYF to the Department of Corrections (DOC) without a hearing prior to the transfer, as required by RCW 13.40.280 (“Ta’Afulisia Lawsuit”). Presently, DCYF is unable to comply with the statutory requirements regarding the provision of notice and conduction of a hearing prior to executing certain actions impacting individuals in its custody. Each person who participates with DCYF has the legal right to contest decisions made about them. DCYF currently lacks the infrastructure necessary to effectively meet these obligations. As a result, DCYF is unable to align its operations with the law, leading to legal risks and operational difficulties.

DCYF is currently in settlement negotiations with plaintiffs’ counsel to resolve the Ta’Afulisia Lawsuit. This negotiation process has further highlighted the urgency of addressing the primary obstacle to DCYF compliance with these statutory obligations: personnel and other resources to design and implement a process. DCYF proposes to address the concerns over a due process right to hearing by forming a hearing office and hiring staff to facilitate hearings on behalf of DCYF. This proposal will help DCYF streamline the hearing process and successfully resolve the current lawsuit. In addition to addressing hearings under the lawsuit, funding will also ensure that youth who are transferred from JR community facilities back to JR institutions under 72.05.405 also are provided hearings.

The ongoing lawsuit and negotiations provide an opportune time to implement changes that were already necessary to address. There will be a three-year period of time beginning September 2023 that the court or a third-party will monitor DCYF’s compliance with statutory obligations. Continuing to operate without sufficient personnel and resources will put DCYF at risk of failing to comply with statutory requirements as well as any settlement agreement or court order that results from the lawsuit. Continuing to operate in this manner increases the risk to children, youth, and families.

This request seeks to implement changes that would help resolve the present legal issues and prevent similar occurrences in the future. DCYF is responsible for conducting 20 hearings prior to December 30, 2023, with over forty more based on the number identified in the settlement class. Going forward DCYF anticipates between 60-75 hearings per year based on the number of youth turning 25 and the number of returns from community facilities.

## Assumptions and Calculations

### ***Expansion, Reduction, Elimination or Alteration of a current program or service:***

Not applicable

### ***Detailed Assumptions and Calculations:***

Detailed calculations are provided in the attachment “JR Class Action Lawsuit Data Tool” for staffing and contracts. DCYF requests \$885,000 total for contracted services in FY24 and FY25, as follows:

- \$620,000 for hearings/legal services to assist in establishing processes; twelve months at \$51,667 per month starting November 2023 and ending October 2024.
- \$165,000 for a Consulting contract for six months beginning November 2023 and ending May 2024, at \$229 per hour for 120 hours per month.
- \$100,000 for client services for attorneys to provide legal assistance for youth in regards to transfer hearings. DCYF estimates 35 hearings in FY24 and 15 per year beginning in FY25 forward. The cost is estimated at \$100 per hour for 20 hours needed per hearing.

### ***Workforce Assumptions:***

DCYF requests \$2,313,000 for salary, benefits, and associated staffing costs for 9.0 FTEs in the 2024 Supplemental Budget. This includes phasing in of the staff in FY24 with full staff in FY25. The staffing model is based on an estimated number of hearings related to DOC transfer for youth under 25 and community facility returns to ensure that JR youth are afforded their due process required by law (60 hearings per year beginning in FY24). The salary and benefits by classification for FY25 are as follows:

- 1.0 FTE WMS Band 3 \$169,817 annual salary and benefits. This FTE will be a JR Hearings Administrator responsible for administering the unit and will be responsible for ensuring compliance with the settlement agreement. This position is assumed to start in November 2023.
- 4.0 FTE Program Specialist 5 \$118,860 annual salary and benefits per FTE. These FTEs will be Hearings Officers. DCYF estimates 1 each per institution (Echo Glen and Green Hill School), 1 on the east side of the state, and 1 on the west side of the state to work on community facility related hearings, for a total of 4. Two are assumed to start in November 2023 and two in January 2024.
- 2.0 FTE Management Analyst 4 \$118,860 annual salary and benefits per FTE. One FTE will manage the contracts to develop and implement the new process, oversee the records staff, and perform quality assurance and continuous quality improvement (QA/CQI functions); this position is assumed to start in October 2023. The other FTE is for the Office of Innovation, Alignment and Accountability. This FTE will develop and monitor reports on the JR to 25 population, escalating variation to leadership and providing regular briefings, manage data-sharing with DOC, and monitor data to identify issues in the quality of the data being collected and working with QA/CQI staff to resolve it. This position is assumed to start in January 2024.
- 1.0 FTE Program Specialist 3 \$102,163 annual salary and benefits per FTE. These FTEs will be Hearings Records staff, who are responsible for processing records requests. These were calculated based on DCYF’s estimated number of pages per hearing (1,275) and the number of pages per day that it is assumed a FTE can process (200, based on best practices). DCYF also made assumptions regarding training, onboarding, and integration time for these staff who are assumed to start November 2023; two are non-permanent and two are permanent.
- 1.0 FTE WMS Band 2 \$144,401 annual salary and benefits per FTE, in FY25 and FY26. This FTE will update rules and policy related to the new hearings unit. DCYF assumes this FTE will be hired in October 2023 and will be needed until the three-year period under the settlement agreement is over in August or September 2026.

## Strategic and Performance Outcomes

### **Strategic Framework:**

This package supports the Governor's Results Washington stated goal areas of Efficient, Effective, and Accountable government by increasing the procedural justice, due process, and transparency of decision-making for transfers of young people from lesser restrictive settings to more secure settings. By providing a hearings team, the state will be able to provide a clear and documented process to each young person when a behavior arises that results in the need to evaluate a move to a more restrictive level of care or program. Additionally, the young person is able to be heard and provide their own accounting of the incident for consideration. This treats a young person with dignity and respect and a clear understanding of how decisions are made. The national Performance Based Standards (PBS) for juvenile justice highlights that a young person's perception of their rules and their rights significantly improves their confidence in being treated fairly and equitably, even if they do not agree with the outcome of the decision. As public servants, increasing the equity and fairness of our practices in state government also increases the experience of our clients being treated with dignity and respect. The Governor also has a goal of increasing the health and safety of communities. A young person involved in the juvenile justice system who then experiences procedural justice in decision making that directly impacts the level of security/restrictions the experience in JR or DOC, is more likely to believe that they were treated fairly and equitably by this part of the justice system, which likely impacts the overall safety of communities.

This package supports the DCYF's strategic plan by promoting racial equity and working to eliminate racial and ethnic disparities by creating a fair and equitable hearings process. Additionally, the creation of a hearings unit also supports creating successful transitions to adulthood for youth and young adults in our care and strengthens therapeutic relationships. As the age of JR clients increases, the need for processes and structures to support their desire for and understanding of fair and equitable practices also increases. This creates a natural tension that pushes JR to advance our practice to meet the procedural justice needs of all youth. Evolving our practice in this way promotes therapeutic environments. Having predictable and consistent environments is critical for maintaining both safety and therapeutic environments. The more young people trust the decision-making process, the more likely they are to accept the decisions and not create additional safety concerns.

### **Performance Outcomes:**

Performance on national Performance-based Standards (PbS) youth surveys regarding procedural justice (fair and equitable treatment) will improve as compared to national standards. The specific PBS measure is regarding staff members being fair about discipline issues. For the last reporting cycle in April 2023, 38% of youth at Echo Glen and 23% of youth at Green Hill School said no, staff are not fair; 30% at Echo Glen said sometimes and 48% at Green Hill School said sometimes.

Not all discipline will result in hearings. However, a clear understanding of the behaviors that lead to a hearing and a defined hearing process with representation will support fairness in discipline and support the conversion of "no" and "sometimes" answers to "yes".

All youth who are transferred to the Department of Corrections will have a hearing.

## Equity Impacts

### ***Community outreach and engagement:***

This request is the result of extensive conversations with Columbia Legal Services regarding young people in JR who were transferred to DOC without a formal hearings process, including documentation of the decisions, right to appeal clearly provided, and ability for youth to tell their own story and have representation. CLS has worked with multiple partners and young people throughout the settlement process. Although, DCYF did not conduct formal outreach and engagement in the timeframe of the decision package build, stakeholders will be able to comment during the WAC comment period to inform the practice and implementation.

Based on the feedback provided from CLS, DCYF has expanded the notification process, representation, and timeframes for a youth to have an opportunity to review the reason for transfer.

### ***Disproportional Impact Considerations:***

The juveniles currently in DCYF's custody across the state are disproportionately people of color and of marginalized communities as well as the families served.

### ***Target Populations or Communities:***

Young people in JR will have improved representation, voice, and clarity in the reasons for a reduction in their level of freedom in a carceral environment, whether moving from a JR institution to DOC or from a JR community facility back to a JR institution. An enhancement in their perception and experience of fairness of the justice system is also anticipated.

## Other Collateral Connections

### ***Puget Sound Recovery:***

Not Applicable

### ***State Workforce Impacts:***

This request does not impact any collective bargaining agreements or statewide compensation and benefits policy. This request includes funding for 11.0 FTE positions.

### ***Intergovernmental:***

Not Applicable

### ***Stakeholder Response:***

These are internal processes to DCYF to increase transparency and procedural justice aspects to improve practices and a young person's experience of fairness and equity.

### ***State Facilities Impacts:***

Not Applicable

### ***Changes from Current Law:***

No statutory or contractual changes are required. The focus of this request is to ensure that DCYF possesses the requisite resources to comply with the statutes as written. However, given the legal and operational challenges that have recently come to light, DCYF has undertaken a thorough review of the rule in Chapter 110-745. As a result, DCYF has implemented emergency rules and has filed a CR-102 Proposed Rule-Making Notice to Chapter 110-745 WAC to better align the rules with the statutory requirements and address concerns brought to light, in part, by the Ta'Afulisia Lawsuit.

### ***Legal or Administrative Mandates:***

The Ta'Afulisia lawsuit requires DCYF to hold hearings before transferring youth from JR facilities to DOC. This request supports DCYF's efforts to be in compliance with this settlement.

While DCYF is currently in settlement negotiations with plaintiffs' counsel to resolve the Ta'Afulisia Lawsuit, DCYF must also prepare for the possibility that the court may enter an order requiring DCYF to take certain actions. No matter the outcome, the Ta'Afulisia Lawsuit has emphasized the need for DCYF to seek additional resources and personnel to comply with statutory obligations.

### ***HEAL Act Agencies Supplemental Questions***

Not Applicable

## IT Addendum

### ***Does this Decision Package include funding for any IT-related costs, including hardware, software, (including cloud-based services), contracts or IT staff?***

No

## Objects of Expenditure

Objects of Expenditure <i>Dollars in Thousands</i>	Fiscal Years		Biennial	Fiscal Years		Biennial
	2024	2025	2023-25	2026	2027	2025-27
Obj. A	\$615	\$999	<b>\$1,614</b>	\$814	\$814	<b>\$1,628</b>
Obj. B	\$209	\$335	<b>\$544</b>	\$273	\$273	<b>\$546</b>
Obj. C	\$578	\$207	<b>\$785</b>	\$0	\$0	<b>\$0</b>
Obj. E	\$13	\$20	<b>\$33</b>	\$16	\$16	<b>\$32</b>
Obj. G	\$17	\$26	<b>\$43</b>	\$22	\$22	<b>\$44</b>
Obj. J	\$50	\$29	<b>\$79</b>	\$0	\$0	<b>\$0</b>
Obj. N	\$70	\$30	<b>\$100</b>	\$30	\$30	<b>\$60</b>
Obj. T	\$152	\$246	<b>\$398</b>	\$200	\$200	<b>\$400</b>

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