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ARTICLE

# Using Legal Services to Keep Children in Families: The F.I.R.S.T. Clinic

Our children should be our top priority, rather than being lost and forgotten. The F.I.R.S.T. Clinic will allow children to remain in their homes, avoiding out-of-home placement.

By Tonya Wall and Adam Ballout

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The foster care system in our country is in a crisis. The United States Children's Bureau reported in 2017 that more than 250,000 children enter foster care each year. Of these children, 61 percent are removed under the guise of neglect and 34 percent are removed due to parental substance abuse. The remaining 5 percent of children are removed due to the caretaker's inability to cope, physical abuse, child behavior problems, housing issues, parental incarceration, abandonment, sexual abuse, child disability, parental death, and voluntary relinquishment. Nearly 50 percent of those children are given an active case plan of not being returned to their parents. That is 125,000 children who are often lost in the rapid-flowing river of the foster care system for an indefinite amount of time.

Child Protective Services (CPS) is required to make reasonable efforts to prevent or eliminate the need for removal of children from the child's parental home. However, the reality of what we have witnessed through years of advocacy in multiple jurisdictions is that this frequently does not occur. "Justice by geography" is a phrase that gets thrown around a lot as it relates to child welfare. This is because the geographical location of where the dependency case occurs can make a difference between whether a child is able to remain with his or her parents or not. There is no uniform procedure or policy for when or how children are removed from their parents and in that subjective space there is a lot of room for error.

When a child is removed in Washington, a family team decision-making meeting (FTDM) occurs. An FTDM is meant to be a forum in which CPS and the parents sit down together to explore and discuss alternative options for the placement of the newly removed children. However,

increasingly parents and their families all across the state are being told to “save it for court in a few days when you get a lawyer.” Rather than making decisions together, the parents arrive to learn that CPS has already decided. The decision is then revealed to the family as if somehow it was brought to fruition organically, with all parties involved.

As it stands now in Washington, parents only get to meet their court-appointed lawyer just a few minutes before court proceedings that may permanently affect a fundamental constitutional right. The first meeting with a lawyer occurs 72-hours after their children have already been removed from their care. Many parents have not seen their children in days. At that point the parent can either choose to go forward with a hearing, even though their lawyer has not had time to prepare, or ask for a continuance which will mean that their children will remain in state custody and away from them for a longer period of time. Parents are also rightfully suspicious of interactions with new people, given what has occurred, and so often it can take some time for their lawyers to build rapport. It’s not difficult to understand why parents experience a “fight or flight” reaction to CPS. Some parents are so discouraged and hopeless that they never show up to court again after the initial hearing.

Once children are placed into foster care, they often report feeling a lack of control over their lives. Some studies on the knowledge, attitudes, and participation of children after dependency court hearings, found that 54 percent of children did not know the outcome of the hearing, and 37 percent of children felt not believed or unheard—a substantial proportion. Until recently, foster children in Washington state did not have right to an attorney themselves. This has recently shifted, though most children still are not appointed an attorney until they have been legally free from their parents for six months or more, depending on the child’s age. Legal representation is crucial for children in foster care. The lack of a right to counsel for every child in a child welfare case in Washington means that children do not have an advocate to ensure their involvement and voice is heard for decisions that involve their safety and permanence.

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Studies show that the removal of children from their parents causes significant long-term trauma.

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The genesis for the Family Intervention Response to Stop Trauma (F.I.R.S.T.) Legal Clinic began on a return trip from a permanency planning summit during which it was revealed that 12 to 15 babies are being removed every month in our county. Neil Weiss, an attorney from our office who had attended the summit, began to think about how we could begin to advocate “upstream,” before a child entered into state custody. Weiss has the unique mix of an incredible work ethic combined with a stubborn inability to accept the status quo. Based on his vision and leadership, a plan began to form to begin a medical-legal partnership to address the trauma of children being unnecessarily separated from their parents due to removal into the foster care system. This partnership would create a multidisciplinary team to offer wraparound services to prioritize prevention with the goal of completely avoiding children being removed from their home.

The F.I.R.S.T. Clinic offers a free attorney for a parent prior to the normal CPS appointment process, stable housing, streamlined access to drug/alcohol evaluations and treatment, employment and skills training support, and a nurse-parent partnership for first time mothers in which an assigned nurse works with a family for the first two years of a child’s life. This clinic would be revolutionary because instead of waiting until after removal of the child to appoint a lawyer, the F.I.R.S.T. Clinic works with pregnant moms and new mothers *prior* to CPS intervention in order to access drug and alcohol services, organize family resources, and hopefully avoid removal of the child altogether.

The F.I.R.S.T. Clinic model acts as a team in a first responder style. The average response time from calling the F.I.R.S.T. Clinic to direct contact with a lawyer is less than 20 minutes. Clients are identified and referred to the F.I.R.S.T. Clinic by hospital social workers, drug and alcohol counselors, and treatment facilities. Pregnant mothers and new mothers who are the subject of a CPS investigation and who are not currently court involved with that baby qualify for the F.I.R.S.T. Clinic. Ideally our clients are referred to the F.I.R.S.T. Clinic months prior to the birth of their child so we can safety plan CPS involvement together. Early intervention also allows us to mitigate one of the biggest issues our clients face: homelessness.

Along with the legal advocacy, the F.I.R.S.T. Clinic provides an entire support structure for a parent and child. The team includes a resource navigator who helps assist with a direct connection to clean, stable housing that can be used as a secure address to discharge to after successful completion of treatment. Another service that the clinic offers is a veteran parent (parent ally).

This is a parent who has successfully navigated the CPS system and reunified with their child. The veteran parent accompanies the attorney and acts as compassionate and emotional support for the new participant. This fulfills a role that an attorney isn't necessarily equipped to take on and provides an advocate who is more able to connect and communicate with the parent.

"I want mother's coming into the F.I.R.S.T. Clinic to be empowered and to feel completely supported. I want them to have the time they need to heal and focus on themselves and to gain the tools they need to permanently avoid their family being caught up in the system in the future."

—[Gina Wassemler](#), F.I.R.S.T. Clinic veteran parent and 2019 ABA Reunification Hero Award recipient

The housing component of our F.I.R.S.T. Clinic offers 18–24 months of safe and supportive housing run by a parent ally. Our region, like so many others, faces a pervasive problem of chronic homelessness. A parent successful in becoming clean is simply not enough if they are then discharged to the streets. Also, as the F.I.R.S.T. Clinic continues to grow and expand, we're working with our local community college to put in place additional employment resources and life skills classes for parents on-site so that new families are leaving the F.I.R.S.T. Clinic with the tools they need to never have contact with CPS in the future.

[Studies show](#) that the removal of children from their parents causes significant long-term trauma. "Trauma often causes significant neurological and physiological changes to children's growing brains and bodies. The science regarding such changes is robust and compelling." The F.I.R.S.T. Clinic is an innovative, upstream, medical-legal partnership that recognizes the trauma that separation has on children. Utilizing the F.I.R.S.T. Clinic is a preventive way to change the trajectory of family crisis, minimize trauma, and prevent involvement in the foster care system.

The F.I.R.S.T. Clinic endorses the evidence-based model of Eat, Sleep, Console (ESC) as a way to treat parents with substance abuse issues, and ESC has radically altered medical mindsets on how to treat infants who are born with Neonatal Abstinence Syndrome (NAS). The ESC model encourages keeping babies with mothers, promoting breast-feeding and skin-to-skin contact as well as other comfort measures. When ESC was rolled out, some of the biggest skeptics of the model were the nurses helping to oversee implementation. After all, why let these mothers who caused the harm to their children now be part of the solution? Following a dramatic 93 percent decrease in the use of morphine to treat babies who had the benefit of ESC with their mothers,

the same nurses who once had reservations have become avid supporters. In addition, in just 7 months, the University of North Carolina Children's Hospital at Chapel Hill dropped their lengths of stay for NAS from about 11 days to 5 days by moving from the old model of scheduled morphine dosing treatment for babies to the ESC model, according to a report at the Pediatric Hospital Medicine meeting. The use of morphine also dramatically decreased from 93 percent of infants transferred to the hospital's inpatient floors for NAS [to just 12 percent](#), with no downsides for infants or moms.

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Other than championing the status quo, there is no reasonable argument against trying to help people in a more proactive way.

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To dispel any myth that babies could be in “danger” by implementing this model, it should be made clear that no amount of legal advocacy can end up placing a baby in danger. There continues to be a channel for the CPS to remove the child at any time through the normal court process, and nothing hinders mandatory reporting from the hospital. The F.I.R.S.T. Clinic plugs into the existing CPS model that is in place today. Ironically, an attorney involved earlier in the process, tends to facilitate more parental cooperation and communication with CPS. The F.I.R.S.T. Clinic follows an already successful model of upstream advocacy that has been working for years for families that have financial resources to secure needed treatment and services.

Other than championing the status quo, there is no reasonable argument against trying to help people in a more proactive way. From a purely evidence-based view, the implementation of upstream solutions is best for the family unit. From a purely financial cost-savings perspective, improving legal representation and support for parents in child welfare cases results in better outcomes for children and families and can lead to substantial [savings of government funds](#).

The legal and medical fields don't often mesh together in complimentary ways. Most interactions between our two fields are conflict-based and play to the worst stereotypes. We do not even refer to the people that we serve in the same terms: patients vs clients. However as both fields explore upstream solutions and social justice becomes more of a factor in patient care and advocacy, it's a natural progression to begin a multidisciplinary model that helps shape future professionals on an educational level. The challenges that patients and clients face are often the same. Learning about them with a multidisciplinary model upstream, allows problems which appear to be coincidences from one perspective to be revealed as co-instances that are part of a larger, systemic problem. The F.I.R.S.T. Clinic will soon expand this work to include medical students. Lawrence Schechter, associate dean of Clinical Education states, "The Washington State University Elson S. Floyd College of Medicine is excited to endorse the work of the F.I.R.S.T. Clinic and is eager to find ways to collaborate between our medical students and F.I.R.S.T. Clinic participants in this formative medical-legal partnership."

The historic nature of this collaboration also extends to the world of pediatrics and family medicine. The Washington State Chapter of the American Academy of Pediatrics, through its Executive Committee, has endorsed working with ABC Law Group and the F.I.R.S.T. Clinic to establish a medical-legal partnership for mothers and babies when a new mother has opiate addiction. We will work together to educate hospitalists and neonatologists about the law, a mother's rights, and legal resources in a collaborative effort to reach and support new mothers as early as possible. The following statement is from Elizabeth Meade, president of the Washington Chapter of the American Academy of Pediatrics:

Through this partnership, we will help new mothers bond with their babies and access legal resources and supports (like treatment and housing) during a critical window surrounding their child's birth. The Washington Chapter of the American Academy of Pediatrics is pleased to be partnering with ABC Law Group and the F.I.R.S.T. Clinic to promote family-centered care and decrease childhood trauma related to family separation.

Children in our community should not be overlooked. We have a responsibility to try and keep families together rather than continuing to place children into a foster care system [we know is broken](#) and looking away as though it is not our problem. If they stay alive, the "forgotten" children of our failed child welfare system engage our medical, mental health, criminal justice and housing systems once they are adults. In our country, our children should be our top priority, rather than

being lost and forgotten. The F.I.R.S.T. Clinic will allow children to remain in their homes, avoiding out-of-home placement, which is a healthier option for families within our community.


“A pain that makes one wake and cry, out of the pain one cannot find the source of; out of nothing: One wakes and everything has vanished. A pain whose only nourishment is grief, endless in its source, yet never ending hunger.”

—Herbert Mason, *Gilgamesh*

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