



Children of Incarcerated Caregivers

## The Washington Parenting Sentencing Alternative

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The state of Washington enacted the Washington Parenting Sentencing Alternative in 2010, creating a pair of sentencing alternatives that would allow parents facing incarceration or currently incarcerated to remain with or return to their children through one of two programs: the Family and Offender Sentencing Alternative for parents facing incarceration and the Community Parenting Alternative for parents currently incarcerated.<sup>1</sup> This report explores the development and implementation of both programs and examines the programs' impact on addressing parental incarceration.

### I. History and Overview

The Washington Parenting Sentencing Alternative (PSA) was conceived in 2009 and enacted in 2010 to create a sentencing alternative that would allow parents facing incarceration to remain with their children. At the time, all state agencies were tasked with making budget cuts in order to alleviate the economic pressures of the 2008 financial crisis.<sup>2</sup> The Children of Incarcerated Parents Advisory Committee, which was performing research on children with incarcerated parents, had suggestions for a sentencing alternative for parents that would address both the needs of children and the budget of the state.<sup>3</sup> In response, the Washington State Department of Corrections (WADOC) created a sentencing alternative for parents, with the goal of reducing prison costs.<sup>4</sup> As the PSA program developed and coordinated with the Department of Social Health and Services (DSHS) and the Department of Early Learning (DEL), other goals for the program came into focus.

Initially, the goal within the program was for parents to learn more active parenting skills and take on the responsibility of parenthood and living in the community.<sup>5</sup> As the program developed, program development goals honed in on placing the applicant's children at the center

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<sup>1</sup> Chyla M. Aguiar MA & Susan Leavell, *A Statewide Parenting Alternative Sentencing Program: Description and Preliminary Outcomes*, SMITH COLL. STUD. IN SOC. WORK 78, 79–80 (2017).

<sup>2</sup> *Id.*; see also Interview by Guo, N. with WDA's Incarcerated Parents Project Resource Attorney D'Adre Cunningham (Nov. 2023) (hereinafter "Interview #1").

<sup>3</sup> Children and Families of Incarcerated Persons, *Children and Families of Incarcerated Parents Advisory Committee Annual Report* (January 2010).

[https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=Children%20and%20Families%20of%20Incarcerated%20Parents%202009\\_499fc72e-e0e8-4021-b6da-a27bb0f5e063.pdf](https://app.leg.wa.gov/ReportsToTheLegislature/Home/GetPDF?fileName=Children%20and%20Families%20of%20Incarcerated%20Parents%202009_499fc72e-e0e8-4021-b6da-a27bb0f5e063.pdf).

<sup>4</sup> Aguiar MA & Leavell, *supra* note 1 at 79.

<sup>5</sup> *Id.* at 80.

of every decision made through the program, and the PSA built relationships with other state programs in order to ensure that the “best interests” of the children were met at each step, from determining eligibility to graduating from the program.<sup>6</sup> Washington defines that a child’s best interests are served “by a parenting arrangement that best maintains a child’s emotional growth, health and stability, and physical care,” and the program is structured to strengthen family bonds in order to produce those results.<sup>7</sup> The enactment of the PSA gave rise to two programs—the Family & Offender Sentencing Alternative (FOSA) and the Community Parenting Alternative (CPA)—familiarily termed “court-side” and “prison-side” respectively, as the FOSA program is entered as a parent is being sentenced in court while the CPA is an alternative pursued by an eligible parent who is actively incarcerated.

Washington State codified the court-based program, the FOSA, through the Revised Code of Washington (RCW) 9.94A.655, which became law in 2010 and was recently revised in 2020.<sup>8</sup> The FOSA allows state courts to impose twelve months of community supervision along with conditions for treatment and programming for eligible individuals facing a prison sentence.<sup>9</sup> The courts can impose FOSA sentences at their discretion. WADOC supervises the administration of the FOSA program; corrections specialists are assigned a caseload of FOSA participants and advise the courts in their sentencing decisions via risk assessments.<sup>10</sup>

The prison-based sentencing option, the CPA, allows eligible incarcerated individuals to serve up to the final twelve months of their sentence at home via electronic monitoring, or, as of June 10, 2024, the final eighteen months if the individual is in the Residential Parenting Program.<sup>11</sup> The CPA was created through Revised Code of Washington 9.94A.6551, also enacted in 2010 and revised as recently as June 2024.<sup>12</sup> Since the CPA’s inception, policies have been amended on occasion to expand its eligibility requirements, including expanding eligibility to include parents who have had their parental rights suspended and parents who have ongoing immigration cases.<sup>13</sup>

The FOSA and the CPA share many program features. Both are divided into three phases of supervision over the course of the 12 months of the program, with good behavior and progress in the program rewarded with progression into a phase of lighter supervision.<sup>14</sup> In addition, both

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*, citing “Dissolution Proceedings-Legal Separation Policy”, RCW 26.09.002 (2007).

<sup>8</sup> Department of Corrections, *Parenting Sentencing Alternative* (2023).

<sup>9</sup> *Id.*

<sup>10</sup> Interview by Busk, L. & Jurnak, L., with WADOC Parenting Program Supervisor Katrina Avent (Nov. 2023) (hereinafter “Interview #2”).

<sup>11</sup> Department of Corrections, *supra* note 8; *see also* Interview by Busk, L. & Jurnak, L., with WADOC Parenting Program Administrator Jennie Fitzpatrick (Nov. 2023) (hereinafter “Interview #3”).

<sup>12</sup> RCW 9.94A.6551; *see also* Senate Bill 5938, Wash. S. 68<sup>th</sup> Leg. (2024) (enacted).

<sup>13</sup> Department of Corrections, *supra* note 8. *See also* Interview #1, *supra* note 2.

<sup>14</sup> Interview #2, *supra* note 10.

programs involve a PSA corrections specialist assisting the PSA participant, supporting them as a mentor, while the participant attends classes and programs to better meet their child's needs.<sup>15</sup> Still, there are some differences between the two sentencing alternatives.

## **II. Court-Based Option: Family & Offender Sentencing Alternative (FOSA)**

### **A. Eligibility and Suitability**

Revised Code of Washington 9.94A.655 provides eligibility requirements for FOSA sentences.<sup>16</sup> The statute mandates that an individual seeking FOSA participation must be either (1) a parent or guardian with physical custody of a minor child; (2) an expectant parent; or (3) a biological or adoptive parent, custodian, or stepparent with a proven, established, ongoing, and substantial relationship with a minor child at the time of the offense.<sup>17</sup> Furthermore, all FOSA participants must sign any release of information waivers required to allow information regarding current or prior child welfare cases to be shared with WADOC and the court.<sup>18</sup> While the categories of guardian relationship determine whether a potential participant is eligible for program, the release of information is used to assess whether a potential participant is suitable for the program.<sup>19</sup>

Section 9.94A.655 further elaborates eligibility criteria such that a qualified individual must: (1) be sentenced for an offense with a standard sentence range greater than one year, and (2) have no prior or current conviction for a felony sex offense, serious violent offense, or a felony offense involving the individual's use of a deadly firearm or weapon.<sup>20</sup>

### **B. FOSA Risk Assessments**

Section 9.94A.655 authorizes courts to consider WADOC risk assessment reports during FOSA sentencing.<sup>21</sup> In practice, the court has always requested a risk assessment when considering someone for the FOSA program.<sup>22</sup> During the risk assessment, the WADOC weighs who is statutorily eligible with an individual's "suitability" for the FOSA.<sup>23</sup> In crafting a risk assessment, the WADOC recommends specific programming based upon an evaluation of a variety of factors, including the individual's substance abuse history, criminal history, employment status, financial issues, victim and community concerns, family dynamic, and the

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<sup>15</sup> Interview #3, *supra* note 11.

<sup>16</sup> RCW 9.94A.655 (2016).

<sup>17</sup> RCW 9.94A.655 (2016).

<sup>18</sup> Department of Corrections, *supra* note 8.

<sup>19</sup> For more information on suitability, see heading B. FOSA Risk Assessment.

<sup>20</sup> RCW 9.94A.655.

<sup>21</sup> RCW 9.94A.655.

<sup>22</sup> Interview #2, *supra* note 10.

<sup>23</sup> Interview #3, *supra* note 11.

impact their incarceration would have on their children.<sup>24</sup> For example, addiction is an area of concern for many FOSA participants and the WADOC will recommend in-patient or out-patient treatment as a condition of participation in the program.<sup>25</sup>

The court will mandate WADOC-suggested programs as terms of an individual's FOSA sentence.<sup>26</sup> While it is uncommon for courts to impose a FOSA sentence without WADOC's recommendation, it occasionally happens.<sup>27</sup> In such cases, judges still refer to the recommendations in the risk assessment for suitable and supplemental programs and classes.<sup>28</sup> If participants are not following the FOSA sentence conditions, WADOC will submit violation reports to the court and can ask for the program to be revoked or for additional sentencing.<sup>29</sup> Often, violations lead to program participants reverting to a phase of higher supervision or delaying their progress into a phase of lesser supervision – for example, a program participant who is currently mandated to report to their FOSA officer once a week may now have to report twice a week, or may not progress to a phase of light supervision where they have to report only once every other week.<sup>30</sup>

Additionally, under RCW 9.94A.655, Washington's Department of Children, Youth, and Families (DCYF) must inform the court of open child service cases or prior substantiated referrals of abuse or neglect against the potential FOSA participant within seven days of the court's initial request.<sup>31</sup> When open cases or substantiated referrals exist, a DCYF-assigned social worker works collaboratively with a WADOC-assigned corrections specialist throughout the phases of FOSA supervision.<sup>32</sup> Together, the social worker and corrections specialist conduct monthly home visits, share information, and communicate over non-duplicative program mandates each of their organizations require.<sup>33</sup>

### **C. Program Features**

WADOC's supervision of FOSA participants incorporates solution-based case management through the three phases.<sup>34</sup> Throughout a FOSA sentence, an assigned WADOC corrections specialist acts as both a mentor and advocate for a FOSA participant while

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<sup>24</sup> Interview #2, *supra* note 10.

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> Interview #2, *supra* note 10.

<sup>30</sup> Interview by Borkgren, H. with WADOC Parenting Program Supervisor Katrina Avent (Oct. 2024) (hereinafter "Interview #4").

<sup>31</sup> RCW 9.94A.655.

<sup>32</sup> Interview #3, *supra* note 11.

<sup>33</sup> Interview #2, *supra* note 10.

<sup>34</sup> *Id.*

emphasizing the importance of present parenting.<sup>35</sup> PSA-assigned corrections specialists only handle caseloads involving other FOSA or CPA participants. Currently, WADOC implements specific training for all PSA officers, with a focus on identifying abuse, neglect, and other adverse childhood experiences.<sup>36</sup>

During the first phase (0–3 months), FOSA participants are required to have daily contact, in-person or remotely, with their corrections specialist.<sup>37</sup> This helps build a strong rapport between participants and their assigned specialists, which is especially important for participants with negative experiences with WADOC.<sup>38</sup> Also during this first phase, a participant may be required to participate in up to three short-term transitional counseling services.<sup>39</sup> WADOC also assists FOSA participants in finding longer-term counseling and therapy.<sup>40</sup> After 3 months of the first phase are completed, participants who have been performing well graduate to the second phase. During the second phase (4–8 months), FOSA participants change focus. Their goals shift to educational and vocational classes in pursuit of employment.<sup>41</sup> In this phase, a participant’s contact with their specialist is reduced to once every other week, participants are allowed to go to social events, and participants who are not currently working are allowed to begin searching for work.<sup>42</sup>

During the third phase (9–12 months), the FOSA participants begin to assert their independence.<sup>43</sup> If a participant in second phase reaches 9 months in the program, their program specialist determines whether they can move onto the third phase or whether they should remain at the second phase for the next month. At this phase, the program specialist only contacts their participant once a month. Cases where a program specialist determines someone is ready to move on to the third phase are rare, and most often, participants graduate the program while still in the second phase.<sup>44</sup> To reach the third phase, participants must have never violated and have no alcohol, drug, or mental health concerns, in addition to the program specialist being confident the participant will succeed with such minimal contact.<sup>45</sup>

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<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> Criminal Sentencing Task Force, *Washington State Parenting Sentencing Alternative* (July 2021). [https://s3.wp.wsu.edu/uploads/sites/2180/2022/03/Parenting-Sentencing-Alternative-2021-7\\_28.pdf](https://s3.wp.wsu.edu/uploads/sites/2180/2022/03/Parenting-Sentencing-Alternative-2021-7_28.pdf).

<sup>42</sup> Interview #4, *supra* note 30.

<sup>43</sup> Criminal Sentencing Taskforce, *supra* note 41.

<sup>44</sup> Interview #4, *supra* note 30.

<sup>45</sup> *Id.*

## D. Results

As of August 2024, 595 individuals had participated in the FOSA program with 433 (73%) successfully completing the program, these statistics not including active participants in the program.<sup>46</sup> Only 6.4% of the participants who have completed the FOSA program have returned to prison on a new felony,<sup>47</sup> compared to Washington State's overall estimated recidivism rate of 30-40%.<sup>48</sup>

## III. Prison-Based Option: Community Parenting Alternative (CPA)

### A. Eligibility & Suitability

As per RCW 9.94A.6551(2), a parent or caregiver of a minor child may be eligible for CPA if the individual (1) is serving a sentence where the high-end range is greater than one year; (2) has no current conviction for a violent offense, unless it has been determined that the individual is not at high risk to reoffend; (3) is not subject to a deportation detainer or order and will not become subject to a deportation order during the period of the sentence; and (4) signs all release of information forms.<sup>49</sup> The individual must also meet one of the following criteria: is an expectant parent; is a parent with guardianship or legal custody of a minor child; or is a biological/adoptive parent or stepparent with a proven, established, ongoing, and substantial relationship with a minor child that existed at the time of the offense.<sup>50</sup> Furthermore, CPA participants must find a sponsor to represent them throughout the sentence. There is nothing prohibiting sponsors from being friends and family members; WADOC specified a sponsor could be anyone who is willing to hold the PSA participant accountable.<sup>51</sup>

Once preliminary eligibility requirements are established and the application by the individual is submitted, WADOC conducts interviews with the applicant and their sponsor, conducts a home investigation, and prepares a review of the applicant's medical history to determine the applicant's suitability.<sup>52</sup> These documents are compiled and presented for an evaluation by a screening committee of multidisciplinary professionals, typically around eighteen months prior to the sentence's end.<sup>53</sup> If an individual is referred and deemed suitable for CPA placement by the screening committee, the individual will typically be transferred to their

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<sup>46</sup> Washington State Department of Corrections, *Improving Public Safety by Positively Changing Lives: Parenting Sentencing Alternative*.

<sup>47</sup> *Id.*

<sup>48</sup> Interview #2, *supra* note 10.

<sup>49</sup> RCW 9.94A.655(2); Department of Corrections, *Parenting Sentencing Alternative* (2023), <https://www.justicestrategies.org/sites/default/files/FS-500-001-FOSA%20%28002%29.pdf>.

<sup>50</sup> RCW, *supra* note 12.

<sup>51</sup> Interview #2, *supra* note 10.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

home or their sponsor's home and placed on electronic monitoring.<sup>54</sup> While in the program, participants will be supervised by their case manager. Participants must complete any programming and treatment recommended by the WADOC.<sup>55</sup>

## B. Program Features

The CPA program is a unique home detention program in its focus on the best interest of the child and reentry support in the familial context, which shares most features with the FOSA program. Like the FOSA program, the CPA program is based in three phases of supervision, which function identically to the phases for the FOSA program – a first phase of heavy supervision, a second phase of moderate supervision, and a third phase of light supervision which is very rarely reached prior to program completion.<sup>56</sup> CPA focuses on “present parenting,” which requires each participant to read with their children and/or do homework with them for at least twenty minutes per day.<sup>57</sup> Each participant is required to have at least one daily family meal without distraction of television or other technology.<sup>58</sup> Participants learn to utilize community-based resources to adapt to life's challenges and keep their children as their first priority well beyond the program. The intent behind the approach is to strengthen families, thus disrupting the intergenerational cycle of criminal behavior by offering social connections and concrete support.<sup>59</sup>

The CPA program offers a variety of resources to aid in community reentry for the participant, family, and community members. These resources include counseling services and parenting classes. The WADOC works with Family Education & Support Services, a Washington nonprofit organization that offers to PSA participants classes like Dynamic Dads, a fourteen-week court approved, evidence-based class for fathers that focuses on teaching self-care, stress management, and balancing work and family life.<sup>60</sup> WADOC also works with other organizations, such as The Incredible Years organization, which provides early intervention programs to PSA and boasts that it “provid[es] families with the skills they need to promote social-emotional learning (SEL), academic skills, and positive behavioral outcomes of children across various cultures and socioeconomic groups.”<sup>61</sup>

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<sup>54</sup> State of Washington DOC, *Community Parenting Alternative* (Feb. 8, 2021), <https://www.doc.wa.gov/information/policies/files/390585.pdf> at 4-5.

<sup>55</sup> *Id.* at 8.

<sup>56</sup> Interview #4, *supra* note 30.

<sup>57</sup> State of Washington DOC, *Parenting Sentencing Alternative Fact Sheet* (July 31, 2017), [https://justicestrategies.org/sites/default/files/FOSA\\_CPA\\_FACT\\_SHEET\\_3.pdf](https://justicestrategies.org/sites/default/files/FOSA_CPA_FACT_SHEET_3.pdf).

<sup>58</sup> *Id.*

<sup>59</sup> Washington State Department of Corrections, *Parenting Sentencing Alternative Fact Sheet* (June 9, 2016), <https://www.wacita.org/wp-content/uploads/2016/10/FOSACPA-Fact-Sheet.docx>.

<sup>60</sup> *Programs*, FAMILY EDUCATION & SUPPORT SERVICES (Jan. 27, 2024, 12:05AM), <http://www.familyess.org/programs/>.

<sup>61</sup> *Evidence-Based Early Intervention Program*, INCREDIBLE YEARS (Jan. 27, 2024, 12:09AM), <https://www.incredibleyears.com>.

## C. Results

Available resources tracking CPA program outcomes, while somewhat limited, have shown measurable success in reducing recidivism rates. In 2012, a study showed that participants of the CPA program were significantly less likely than a comparable nonparticipant to recidivate within 2 years, with the mere fact of being a CPA participant lowering the chances of recidivism by a full 71%.<sup>62</sup> As of August 2024, 596 participants had successfully completed the CPA program, with a successful completion rate of 83%; in addition, between the CPA and the FOSA, there was a recidivism rate of only 10%, as compared to the recidivism rate of 34% of nonparticipants.<sup>63</sup>

## IV. PSA Expansion Efforts and Legislative History

In its nascent stages, the CPA had broader eligibility criteria than the FOSA. The logic behind this asymmetry was that the FOSA constituted a waiver of a prison sentence altogether, and therefore necessitated a lower-risk target population, while the CPA was open to candidates who had already completed most of their prison sentence.<sup>64</sup>

However, after several years of lobbying from non-profits such as the Washington Defender Association (WDA), the Washington legislature expanded the eligibility criteria for both options in 2019 such that many parents once considered unfit for the program are now eligible.<sup>65</sup> For instance, noncitizens potentially subject to ICE detainment, those who are pregnant or expecting, non-primary caretakers with legal custody, and those with convictions for certain violent offenses are now eligible for both the FOSA and the CPA.<sup>66</sup> Although the Senate was receptive to the broad inclusion of those with prior violent offenses, the House amended the language such that the criteria were not as inclusive as expansion advocates had hoped.<sup>67</sup> FOSA candidates with previous convictions for “violent offenses” are now eligible, but those with previous convictions for “serious violent offenses” and “felony sex offenses” are explicitly barred, with a list of specific serious violent offenses defined by RCW 9.41.010(42).<sup>68</sup> This was a particular disappointment to some advocates, as parents who had prior convictions for some of these offenses had previously graduated the CPA. The legislature also continued to exclude from eligibility for the FOSA any parents or caregivers currently facing a prison sentence for a violent offense.<sup>69</sup>

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<sup>62</sup> Chyla M. Aguiar, *Research in brief: Preliminary felony recidivism outcomes of the Community Parenting Alternative*, Washington State Institute for Criminal Justice (2015).

<sup>63</sup> Washington State Department of Corrections, *supra* note 46.

<sup>64</sup> Interview #1, *supra* note 2.

<sup>65</sup> S.B. Rep. 5291, 2019 Leg., Reg. Sess. (Wa. 2019).

<sup>66</sup> *Id.* at 15-16.

<sup>67</sup> Interview #1, *supra* note 2.

<sup>68</sup> Interview #1, *supra* note 2; *see also* RCW 9.94A.655 & RCW 9.41.010(42).

<sup>69</sup> Interview #1, *supra* note 2; RCW 9.94A.655.



CPA eligibility was also slightly expanded. Parents currently serving a prison sentence for a violent offense are now eligible to apply for CPA, so long as they are not deemed high-risk to reoffend.<sup>70</sup> Additionally, most juvenile criminal history no longer excludes a parent from for both FOSA and CPA eligibility.<sup>71</sup>

Another category that advocates sought to include in expansion efforts are parents whose parental rights were already terminated.<sup>72</sup> The proposal would have made parents who had their parental rights terminated eligible for the CPA if a Washington court was seeking to reunify these parents with their children, including parents whose children were in foster care and had not been adopted.<sup>73</sup> However, this category has yet to be formally added by the legislature. Advocates note that due to the COVID-19 pandemic, progress on expanding the criteria for those considered for the program has slowed considerably.<sup>74</sup>

## V. PSA Program Funding

State legislation passed in 2018 currently funds Washington's PSA programs, which provides budgets to both WADOC and DCYF.<sup>75</sup> As one advocate has noted, in general, the program is actually cost-negative compared to traditional prison programs, as the Department of Corrections saves money by having less people incarcerated.<sup>76</sup> Furthermore, WADOC has slightly increased its own internal PSA funding over time, and in 2024 WADOC allocated an additional 4 million dollars between the FOSA program and the Drug Offender Sentencing alternative to address increased costs in counseling and parenting services classes.<sup>77</sup> While the 2018 legislation provides long-term funding for the WADOC, which was properly allocated to PSA supervision, that same legislation has been criticized for insufficiently funding the DCYF. As per RCW 9.94A.6551(4), the WADOC is mandated to cooperate with the DCYF during eligibility considerations.<sup>78</sup> In 2010, when the PSA program began, the DCYF was allotted funds to pay for a single DCYF employee, but eventually, the DCYF stopped receiving that funding, and thus there was not a dedicated DCYF representative to communicate with the Parenting Program as mandated by law. Instead, a DCYF employee already juggling other responsibilities would be assigned the Parenting Program communications duties on top of their other duties, and thus there would be a delay in the Parenting Program receiving the necessary

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<sup>70</sup> Interview by Borkgren, H. with WDA's Incarcerated Parents Project Resource Attorney D'Adre Cunningham (October 2024) (hereinafter "Interview #5).

<sup>71</sup> *Id.*

<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> Interview #2, *supra* note 10. See also S.S. 6032, 65th Leg., Reg. Sess. (Wa. 2018).

<sup>76</sup> Interview #5, *supra* note 70.

<sup>77</sup> *Id.*; see also State of Washington DOC, *2024 Legislative Session Highlights* (April 2024), <https://www.doc.wa.gov/about/agency/executive-policy/docs/legislative-highlights.pdf>.

<sup>78</sup> RCW 9.94A.6551(4).

documentation. In 2023, the WADOC succeeded in advocating for funding the DCYF position again, but the legislation has not provided the DCYF with long-term funding for this position.<sup>79</sup> In addition, due to current funding shortages, the DCYF lacks regular PSA data reporting.<sup>80</sup>

In 2024, the Department of Corrections proposed a total budget of \$3,979,000 for the state's Sentencing Alternative Services, which assists with all sentencing alternative programs in Washington State, including the Parenting Sentencing Alternative along with other programs, such as the Drug Offender Sentencing Program.<sup>81</sup>

Outside of state funding, the PSA programs recently received federal support in the form of funding from the Office of Juvenile Justice and Delinquency Prevention.<sup>82</sup> This \$764,508 grant will be utilized to evaluate, refine, and expand services offered by the PSA programs.<sup>83</sup> The three-year grant will allow WADOC to partner with the University of Washington to evaluate the cultural appropriateness of the program as well as best practices.<sup>84</sup> Additionally, the funding will allow the expansion of resources for PSA participants including mentorship, financial literacy, and domestic violence prevention programs.<sup>85</sup>

## **VI. The Future and Room for Growth**

Washington's Parenting Sentencing Alternative has offered a solution to the needs of children both with parents facing incarceration and with parents who have already been incarcerated. Despite the benefits offered by the program, there is room for the program to grow, expand, and improve. D'Adre Cunningham, attorney with the WDA's Incarcerated Parents Project, suggested that legislators looking to implement a similar program should consider implementing additional support for parents with different challenges.<sup>86</sup> Factors such as marital status, extended family support, and number of children could warrant additional support.<sup>87</sup> Ms. Cunningham urged consideration of the ongoing challenges and persistent stigmas that parents returning from prison and their children face.<sup>88</sup>

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<sup>79</sup> Interview #4, *supra* note 30.

<sup>80</sup> *Id.*

<sup>81</sup> Washington State Office of Financial Management, *Agency Recommendation Summaries: Department of Corrections*, <https://ofm.wa.gov/budget/state-budgets/gov-inslees-proposed-2024-supplemental-budgets/agency-recommendation-summaries/310>.

<sup>82</sup> The Office of Juvenile Justice and Delinquency Prevention, *Day One: Family-Based Alternative to Sentencing AN OJJDP Listening Session*, YOUTUBE (Jan. 27, 2022), <https://youtube.com/watch?v=BeDWaOiZ3tY>.

<sup>83</sup> *Id.*; see also Office of Juvenile Justice and Delinquency Prevention, *Awards: List of Funded Projects*, <https://ojjdp.ojp.gov/funding/awards/list?district=10&state=WA&page=0>.

<sup>84</sup> Interview #2, *supra* note 10.

<sup>85</sup> *Id.*

<sup>86</sup> Interview #1, *supra* note 2.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

Terralyn Ramirez, a graduate of the FOSA program, similarly urges that the program should expand to include more participants, and that while suitability for the sentencing alternative should be considered, the program should still accept participants who are not immediately considered suitable under the current regime.<sup>89</sup> Ms. Ramirez, when faced with sentencing, repeatedly attempted to enter the FOSA program and was repeatedly blocked by the prosecution, pushing her case out for over 8 months, during which she participated in many parenting classes and rehabilitation programs on her own initiative while awaiting sentencing.<sup>90</sup> When she was finally accepted into the FOSA program and sentenced, Ms. Ramirez simply had to continue with the various programs she had already been involved in. While Ms. Ramirez's hard work to earn the sentencing alternative is admirable, she believes the program should be more accessible to potential candidates from the outset.<sup>91</sup>

Additionally, to states proposing similar legislation, Katrina Avent, WADOC Parenting Program Supervisor, recommended prioritizing long-term funding for agencies, housing, programs, and additional staff.<sup>92</sup> Avent lamented that lack of long-term funding for DCYF caused procedural problems in PSA cases involving open child dependency cases.<sup>93</sup> As previously mentioned, a DCYF representative is mandated to communicate with the Parenting Program, but eventually, the DCYF stopped receiving that funding and there was not a dedicated DCYF representative to communicate promptly with the Parenting Program. To avoid this problem, Ms. Avent recommends that states considering legislation similar to the Washington Parenting Sentencing Alternative plan for long-term funding for not only their Department of Corrections, but also other agencies and staff that will have to work with the alternative program.<sup>94</sup> Furthermore, Avent explained that some Washington judges are reluctant to deliver FOSA sentences, viewing the program as a "get out of jail free card."<sup>95</sup> However, Avent believes if states balance participants' accountability with support, similar challenges can be avoided.<sup>96</sup>

WADOC Parenting Program Administrator Jennie Fitzpatrick has similar recommendations to create a more efficient program, wanting the legislation to expand the program in both duration and in the number of staff.<sup>97</sup> Ms. Fitzpatrick believes that the 18-month duration of other programs within WADOC would be more appropriate for this sentencing alternative. In addition, if the legislature funded additional support staff for corrections specialists, then the corrections specialist would not have to rely upon teams outside of the PSA

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<sup>89</sup> Interview by Borkgren, H. with FOSA Program Graduate Terralyn Ramirez (October 2024) (hereinafter "Interview #6").

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*

<sup>92</sup> Interview #2, *supra* note 10.

<sup>93</sup> *Id.*

<sup>94</sup> Interview #4, *supra* note 30.

<sup>95</sup> *Id.*

<sup>96</sup> *Id.*

<sup>97</sup> Interview #3, *supra* note 11.

program to fulfill their obligations, and instead would have local support designated solely to PSA program needs.<sup>98</sup>

## VII. Conclusion

Washington's Parenting Sentencing Alternative offers a path forward with a sentencing alternative that not only cuts down on costs of incarceration, but also reunifies children with their parents and helps parents improve themselves to prevent recidivism and become healthy, supportive figures in the lives of their children. Washington has further distinguished itself by offering a solution to the needs of children whose parents are both facing incarceration and children whose parents are currently incarcerated. By addressing both populations with the FOSA and the CPA respectively, Washington's Parenting Sentencing Alternative aims to address the best interests of children and parents in reunification and to find a sustainable path forward for families.

Most states that have implemented family-based alternative sentencing initiatives only have a court-based alternative. Washington's CPA program, as a "prison-based alternative," represents a novel way to support people who are currently incarcerated.<sup>99</sup> With data on how many parents are presently incarcerated and which of those parents are eligible for such a program, a state legislature looking to implement a similar program could work to intentionally address the needs of this vulnerable population of parents, and the even more vulnerable population of children separated from their parents.<sup>100</sup>

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<sup>98</sup> *Id.*

<sup>99</sup> Interview #4, *supra* note 30.

<sup>100</sup> *Id.*