



Department of Commerce

Vulnerable Youth Guardianships

An Evaluation as Directed by Chapter 279, Laws of 2017

January 2019
Report to the Legislature
Connie Robins, Acting Director

Acknowledgements

Washington State Department of Commerce

Diane Klontz, assistant director, Community Services and Housing Division

Rick Torrance, managing director, Office of Crime Victims Advocacy

Alice Zillah, lead researcher, section manager, Research Services

Thank you to the attorneys and advocates who volunteered their time to share their experiences working on behalf of vulnerable youth.

Thank you to the members of the Washington State Task Force Against the Trafficking of Persons for their assistance with determining the study approach and for reviewing and editing the final document.

Rick Torrance, managing director

richard.torrance@commerce.wa.gov

(360) 725-2905

Washington Department of Commerce

Office of Crime Victims Advocacy

1011 Plum St. SE

P.O. Box 42525

Olympia, WA 98504-2525

www.commerce.wa.gov

For people with disabilities, this report is available on request in other formats. To submit a request, please call 360-725-4000 (TTY 360-586-0772).

Table of Contents

Executive Summary.....	1
Introduction.....	4
Project Approach.....	8
Appendix A: Resource Document.....	20
Appendix B: Petition for Vulnerable Youth Guardianship	21
Appendix C: Cover Letter for Background Check	24
Appendix D: WSP Background Check Application	25

Executive Summary

Overview

In 2003, Washington became the first state to enact a law (Chapter 267, Laws of 2003) making human trafficking a crime. It has since continued its efforts to provide support services for victims while also raising awareness of human trafficking. Vulnerable youth guardianships are reserved for immigrant youth who have been abandoned, abused or neglected and cannot return to their countries of origin. The establishment of vulnerable youth guardianships serves the state's interest in eliminating human trafficking, preventing further victimization of youth, decreasing reliance on public resources, reducing youth homelessness and offering protection for youth who might otherwise be targets for traffickers.

Passage of the Vulnerable Youth Guardianship Program (Chapter 13.90 RCW) authorized the state's juvenile courts to appoint a guardian for a youth age 18, 19 or 20 years old who files a petition with the court showing that he or she is prima facie¹ eligible to apply for federal special immigrant juvenile status. A proposed guardian must be 21 or older, agree to serve as guardian and be capable of performing the specified duties of guardian.

Proposed guardians may include parents, licensed foster parents, relatives and suitable persons. "Suitable person" is defined in RCW 13.90.010(5)(a) as a nonrelative who has completed all required criminal history background checks and otherwise appears to be competent to provide care for the youth.

Chapter 279, Laws of 2017 directed the Washington State Task Force Against the Trafficking of Persons to:

“(1)(a) Evaluate whether vulnerable youth guardianships established under chapter 13.90 RCW where the guardian is a suitable person, as defined in section 3 of this act, have the unintended impact of placing youth at greater risk of being trafficked; and (b) Compile a list of service providers and available resources for survivors of human trafficking that a court issuing a vulnerable youth guardianship order under section 3 of this act can provide to a vulnerable youth applying for a guardian who is a suitable person ... (2) If findings are made that vulnerable youth guardianships established under chapter 13.90 RCW where the guardian is a suitable person, as defined in section 3 of this act, have the unintended impact of placing youth at greater risk of being trafficked, the task force shall: (a) Research and identify ways to reduce this risk, including recommendations on legislation; (b) Examine whether providing a vulnerable youth applying for a guardian who is a suitable person, as defined in section 3 of this act, with

¹ Latin for “first appearance,” prima facie refers to evidence that, unless rebutted, is sufficient to prove a particular proposition.

an advocate interview prior to granting a vulnerable youth guardianship will help reduce this risk; and (c) Identify best practices for an advocate interview and any related recommendations on training or other requirements for advocate organizations.”

Summary of Key Findings

- Researchers did not locate any evidence that placing youth in vulnerable youth guardianships increases the risk of those youth being trafficked or abused. Because no increased risk was found to be associated with these guardianships, the task force did not evaluate the potential benefits of providing the youth with an advocate interview before the granting of the guardianship.
- The majority of youth placed in vulnerable youth guardianships know and, in many cases, are already living with their guardians.
- Most youth placed in vulnerable youth guardianships are placed with relatives.
- A resource document for youth requesting vulnerable youth guardianships is available for download on the website of the Administrative Office of the Courts. It is attached to this report as Appendix A.² Translations in eight languages are available, including in Spanish, Vietnamese, Korean, Chinese, Russian, Ukrainian, Somali and Tagalog.
- An informal network of attorneys and immigration organizations works to file guardianship petitions and assist with immigration applications after youth guardianships have been approved. The attorneys refer young people to one another based on who has capacity. The Northwest Immigrant Rights Project (NWIRP) often serves as the lead agency generating referrals.
- These organizations and attorneys, many of whom work at no cost or charge a nominal or sliding scale amount for their services, perform an impressive amount of work on behalf of some of Washington’s most marginalized residents.

Summary of Recommendations

Chapter 279, Laws of 2017 (Section 10) directed Commerce to make recommendations to reduce any unintended impact of vulnerable youth guardianships “placing youth at greater risk of being trafficked” than had they not been placed with a guardian. No evidence of such risk was identified. However, interviews with those implementing the vulnerable youth guardianship programs did give rise to recommendations for improvement, discussed in greater detail on page 18:

- One-to-one meetings with youth: Attorneys should make it a practice to meet with the youth separately from the proposed guardian at:
 - The outset of the process
 - At times throughout the application process
 - Following the court’s approval of the guardianship

² <https://www.courts.wa.gov/newsinfo/content/pdf/VulnerableYouthGuardianship.pdf>

- Maintain or increase sources of state funding for immigration assistance: Funding sources for organizations that assist immigrant youth should be maintained and, where possible, increased.

Introduction

Background

Federal law (8 C.F.R. § 204.11 1993) includes a procedure for classifying abandoned, abused or neglected young people between the ages of 18 and 20 who do not have permanent immigration status as long as they have been:

- Declared dependent by a juvenile court
- Legally committed to or placed in the custody of a state agency or department
- Placed in the custody of an individual or entity appointed by a state or juvenile court

These youth can apply for special immigrant juvenile status while between the ages of 18 and 20. After receiving that status, they will become lawful permanent residents of the United States, even after turning 21 and no longer being eligible for a youth guardianship. In Washington, superior courts have jurisdiction regarding the custody and care of juveniles. However, before the passage of the Vulnerable Youth Guardianship Program (Chapter 13.90 RCW), superior courts and the juvenile courts under their purview were generally unable to take jurisdiction of people older than age 18. With the passage of Chapter 279, Laws of 2017, the state's juvenile courts were authorized to approve guardianships for youth up to age 20.

A vulnerable youth who has a guardian still retains the rights of an adult under Washington law.

Federal Special Immigrant Juvenile Status

The federal Special Immigrant Juvenile (SIJ) status enables children and youth who are not U.S. citizens and do not have permanent residence, to obtain lawful, permanent residence by enabling them to apply for a green card. A child or young adult needs a state juvenile court order to be eligible to petition for SIJ status. However, the U.S. Citizenship and Immigration Services decides whether to grant the petition for SIJ status.

The findings necessary for a youth to petition for SIJ classification include:

- Reunification with one or both parents is not viable due to abuse, neglect or abandonment
- It is not in the youth's best interest to be returned to the youth's country of origin

Need for Special Protections

Since 2000, the number of immigrants arriving in Washington has increased 66 percent, according to U.S. Census data.³ Many youth who do not have permanent immigration status

³ Migration Policy Institute, *State Immigration Data Profiles – Washington*, <https://www.migrationpolicy.org/data/state-profiles/state/demographics/WA>

and are apprehended at the U.S. border are initially detained by U.S. Immigration and Customs Enforcement. Some are released on bond, pending the outcome of their applications for asylum, refugee status or visa petitions. Young people who have family members or adults they know in Washington can be released to live with them.

These immigrant youth are fleeing trauma and violence in their countries of origin. Those who have experienced parental abuse, neglect or abandonment have a particular need for a custodial relationship with a responsible adult as they adjust to a new cultural context, language and education system and recover from the harm they experienced. These custodial arrangements promote the long-term well-being and stability of vulnerable youth.

Youth who do not have permanent immigration status and do not have supportive relationships are particularly susceptible to becoming victims of human trafficking.⁴ In contrast, youth with guardians gain additional support and protection. Guardian support can provide vulnerable youth with:

- Stable housing
- Assistance meeting their immediate needs
- Guidance as they acclimate to their environments, schools and communities
- Other potential protective factors that can help limit risk factors that make such youth prime targets for trafficking and exploitation

Process for Petitioning for a Vulnerable Youth Guardianship

Eligible youth can petition the court pro se, or without the services of an attorney. However, data from the Administrative Office of the Courts show that all vulnerable youth guardianship petitions submitted to date have been filed with the aid of an attorney.

To be named as a proposed guardian, a person must be 21 or older, capable of performing the duties of guardian and agree to join the petition before the court. Prospective guardians might include parents, licensed foster parents, relatives and suitable persons. "Suitable person" is defined in RCW 13.90.010(5)(a) as a nonrelative who has completed all required criminal history background checks and otherwise appears to be competent to provide care for the youth.

At the hearing, both the youth and proposed guardian have the right to present evidence and cross-examine witnesses. The rules of evidence⁵ apply to the conduct of the hearing.

U.S. Census Bureau, *Foreign Born*, <https://www.census.gov/topics/population/foreign-born/data.html>

⁴ Wood, Stephen, The Petrie-Flom Center, Harvard Law School, "The Intersection of Human Trafficking and Immigration, (2018), *Bill of Health: Examining the Intersections of Health, Law, Biotechnology, and Bioethics*, <http://blog.petrieflom.law.harvard.edu/2018/06/27/the-intersection-of-human-trafficking-and-immigration/>

⁵ Washington Courts, *Washington State Court Rules: Rules of Evidence*, https://www.courts.wa.gov/court_rules/?fa=court_rules.list&group=ga&set=ER

When a court approves a vulnerable youth guardianship petition, it shall issue an order that:

- Appoints a person to be the guardian for the vulnerable youth
- Requires the guardian ensure that the legal rights of the vulnerable youth are not violated and may specify the guardian's other rights and responsibilities concerning the care, custody and nurturing of the vulnerable youth
- Specifies that the guardian will not have possession of any identity documents belonging to the vulnerable youth
- Specifies the need for and scope of continued oversight by the court, if any

If youth were to represent themselves pro se and their proposed guardians were suitable persons, then the court would also provide a list of service providers and available resources for survivors of human trafficking. This resource document is available on page 20.

Terminating or Modifying the Guardianship

The vulnerable youth guardianship terminates automatically on a youth's 21st birthday.

At any time before that age, a youth may ask the court to modify the provisions of a vulnerable youth guardianship order or appoint a new guardian. To do so, a youth needs to file a motion and affidavit and provide notice and copies of the motion and affidavit to the current guardian.

The court shall terminate the guardianship upon receiving the vulnerable youth's request to do so.

Number of Vulnerable Youth Guardianships

Chapter 13.90 RCW went into effect July 23, 2017, and the first petitions were filed in August 2017. A total of 83 petitions for vulnerable youth guardianships have been filed in county juvenile courts as of Sept. 30, 2018 (Table 1). Thirty-eight petitions, or 46 percent, were filed in King County.

Table 1: Guardianships Filed by County, August 2017 through September 2018

County	No. of Vulnerable Youth Guardianships Filed
Benton County	1
Skagit County	1
Thurston County	1
Adams County	2
Grays Harbor County	2
Island County	2
Kitsap County	2
Whatcom County	2
Clark County	3
Yakima County	4
Grant County	6
Pierce County	9
Snohomish County	10
King County	38
Total	83

Source: Administrative Office of the Courts

Note: Counties not listed did not record any petitions for vulnerable youth guardianships.

Project Approach

Work Group

In August 2017, the staff of the Task Force Against the Trafficking of Persons convened a work group to determine a project approach. All task force members were invited to participate in the work group. The following individuals volunteered their time:

- **Tim Warden-Hertz, Northwest Immigrant Rights Project (NWIRP).** NWIRP promotes justice by defending and advancing the rights of immigrants through direct legal services, systemic advocacy and community education.
- **Hao Nguyen, API Chaya.** “API Chaya empowers survivors of gender-based violence and human trafficking to gain safety, connection and wellness.” It educates and mobilizes “South Asian, Asian, Pacific Islander and all immigrant communities to end exploitation, creating a world where all people can heal and thrive.”⁶
- **Kathleen Morris, Washington Anti-Trafficking Response Network (WARN).** “WARN is a coalition of non-governmental organizations that provide direct assistance to victims of human trafficking in Washington State. Since 2004, WARN has assisted survivors of modern day slavery on their path to restoration and recovery.”⁷
- **Dae Shogren, Department of Children, Youth, and Families (DCYF).**⁸ DCYF is a cabinet-level agency focused on the well-being of children. Its vision is to ensure Washington’s children and youth grow up safe and healthy — thriving physically, emotionally and academically, nurtured by family and community.
- **Stephanie Pratt, Office of Crime Victims Advocacy (OCVA).** OCVA serves as a voice within government for the needs of crime victims in Washington. It advocates on behalf of victims obtaining needed services and resources, administering grant funds for community programs working with crime victims, assisting communities in planning and implementing services for crime victims, and advising local and state government agencies of practices, policies and priorities that impact crime victims.
- **Nicolas Oakley, Center for Children and Youth Justice (CCYJ).** CCYJ works to create better lives for generations of children and youth by reforming the child welfare and juvenile justice systems.

The work group communicated through phone conferences and email to create a project plan, discuss research findings and plan the content of a resource document (described on the next page).

⁶ API Chaya, Who We Are, <https://www.apichaya.org/who-we-are>

⁷ WARN, About Us, <http://www.warn-trafficking.org/about-us/>

⁸ The Department of Children, Youth, and Families was previously the Children’s Administration within the Department of Social and Health Services.

A key issue for the group was how to determine whether vulnerable youth with suitable person guardians (not relatives) were unintentionally placed at greater risk of being trafficked. The work group determined that it would not be ethical, or possible, to contact the youth directly to ask about their risk based on the following factors:

- Their contact information is not available.
- These youth have experienced trauma and neglect and are entitled to their privacy.
- Victims of trafficking generally do not disclose that information to someone they do not know well, so the likelihood of being able to accurately assess risk by surveying the youth is low.

Instead, the work group recommended contacting key informants in other states that have vulnerable youth guardianships and interviewing attorneys in Washington who represent or represented vulnerable youth in guardianship petitions. The feedback received during those interviews is described below.

Resource Document

The work group collaborated on the best approach to compile a list of service providers and available resources for survivors of human trafficking that a court issuing a vulnerable youth guardianship can provide to a youth. The document references two statewide hotlines that provide information on services and resources to trafficking survivors: the Crime Victim Service Center Hotline and the Washington Anti-Trafficking Resource Network. Also included is the Human Trafficking Clearinghouse on Office of Crime Victims Advocacy (OCVA) website, which offers additional resources. These services, along with straightforward information about trafficking, were highlighted in the resource document, available in Appendix A.

To determine which languages to offer the document in, the work group consulted with the Office of the Superintendent of Public Instruction. Based on the data it collects about language groups in K-12 education, English, Russian, Tagalog, Korean, Mandarin, Spanish, Vietnamese, Somali and Ukrainian were the most frequently spoken in the state.

The resource document, available in these nine languages, is posted on the Administrative Office of the Courts website⁹.

Outreach to Other States

Three states established vulnerable youth guardianship programs before Washington: New York, California and Maryland. Research for this report included contacting immigration assistance organizations that work with young people in each of those states. Those organizations were asked whether they had seen any cases in which the guardianships had the

⁹ Washington State Department of Commerce, "Resource Sheet for Vulnerable Youth Guardianships," <https://www.courts.wa.gov/newsinfo/content/pdf/VulnerableYouthGuardianship.pdf>

consequence of putting youth at greater risk of being trafficked, than had the youth not been placed with a guardian. None of the respondents in the three other states had observed or heard of a case in which a youth had been trafficked or otherwise abused by their guardian after the establishment of a vulnerable youth guardianship.

Interviews with Attorneys

Twelve attorneys in Washington were interviewed for this report. Collectively, they have filed 45 petitions for vulnerable youth guardianships – or slightly more than half the total of 83 filed statewide in the 14-month period covered by this report.

To evaluate the risk of the guardianships having the unintended impact of placing the youth at greater risk of being trafficked, the attorneys were asked a series of questions to learn about:

- Their relationships with the youth
- Their experiences with the background checks and other court processes
- Their ongoing communications with the youth following the establishment of the guardianships
- Any other pertinent information

In this section, the interview questions posed to the attorneys are followed by a synthesis of the answers and direct quotes from those interviewed. Some attorneys did not want to be identified by name, so all quotes have been left unattributed.

Many of the attorneys work with the youth at no charge, charge only a nominal fee or charge on a sliding scale based on the client's resources. They generally work on behalf of vulnerable youth because they believe in the importance of the guardianships.

"Many of these youth are learning a new language, and [are] years behind in school, so having an adult who's willing to help them has been significant."

"The process is fabulous and it's so easy – I really want to see it succeed."

How did the youth learn about the vulnerable youth guardianship?

Most attorneys reported that the youth were referred to them after completing an intake process with an immigration assistance organization.

"Two of them are clients I did intakes with, and they learned about it from me."

"Normally they come with a general immigration case, and we screen them and find out that they may be eligible for SIJ status, and we ask them if they are living with anyone that they might be willing to live with for a few years."

"They all came to [my organization] for help with their immigration case. A lot of them have been in Office of Refugee Resettlement custody before they are released."

"When people go to immigration courts, we're listed on the list of free service providers."

“When they contact [our] office, we have intake officers who ask them what they are seeking. We meet with them to let them know what they are eligible for. After that we reach out to the potential guardian.”

In some cases, the attorney processing the vulnerable youth guardianship is not the same attorney who is working on the client’s immigration case.

“Most came through [the immigration assistance organization] and were referred to me. We have a homeless youth project that we work on, and I identified the youth as possibly being eligible.”

“Most of them hear about it from an immigration attorney. They screen and tell people about this opportunity. I’m a family law attorney, so I don’t do much with immigration. It’s confusing for the client – you need two lawyers, first a family law attorney.”

Some of the youth learned about the guardianship through a relative, friend or school.

“My first client learned about it through his school. I previously did legal outreach and services in Seattle public schools and was active in distributing flyers at schools.”

“There was one case in which an older brother had gotten SIJ status, and his younger brother came to us when he was older. When we screen them, we see if they are eligible. Every situation is so different.”

Were youth survivors of trafficking?

Nine of the interviewees indicated that to the best of their knowledge, the youth they represented were not survivors of human trafficking. Three attorneys reported that they had worked with clients who had suffered abuse similar to trafficking, even though the experiences might not fit the legal definition of human trafficking.

“There was one case in which the client suffered abuse in their home country that might be akin to trafficking.”

“A couple of them had to pay off smugglers on their voyages here.”

“One young woman had been a survivor of all sorts of sexual violence, but was not trafficked, as far as I know.”

The attorneys cautioned that many individuals do not disclose their experiences with trafficking and that some do so only after building long-term relationships with supportive advocates or attorneys.

“If someone is vulnerable, I don’t know how you would catch it. Trafficked girls don’t talk about it. It’s not going to come out in the relatively abbreviated process to get vulnerable guardianship status.”

“My understanding is that they don’t tell me first off, but maybe the fifth time, so I tell them that I’m going to ask these questions [about safety and abuse] every time [we meet].”

With whom were youth placed?

The attorneys interviewed said that the majority of their clients were placed with relatives.

“All have been relatives.”

“Most of them were placed with a relative. Just one was placed with a nonrelative.”

“It’s always been a nice grandma, or uncle, or in one case it was a family friend.”

“They all had guardians in mind already – most were relatives that they were already living with. One was a family friend.”

“[My client] had a guardian in mind, his sister.”

What steps do you take to safeguard youth from possible abuse?

Most of the attorneys interviewed reported that they request background checks on all the prospective guardians, regardless of whether they are a relative.

“All have been relatives. I have done the background check for all. I represent the youth, so the goal is to make sure we have it available in the event that the court will want to see it.”

“We do background checks for all. No issues. All had clean records.”

“I’ve had all my clients do the background check – including relatives.”

“The background check is not required for relatives. However, I do a background check for relatives as well, to be able to show the court that the guardian has no criminal history.”

“We got the [background] report for the uncle. The uncle was undocumented – and very nervous about going into court. Today [the youth] is thriving.”

However, several attorneys cautioned that the background check should not be required for relatives, because of concerns that it might deter an otherwise good guardian.

“Many relatives may not have immigration status, so it’s important that it’s not required.”

“Most of the guardianships are going to a family member – generally someone they’ve known their whole life. My concern about the background check is – is it going to scare someone off who would be a great guardian? The guardian themselves might be undocumented, or in a non-permanent immigration status.”

Many youth are initially screened for visa eligibility when they first contact a legal assistance organization. For instance, U Nonimmigrant Status (“U Visa”) allows immigrant victims of serious crimes who assist law enforcement with the investigations into those crimes to apply for legal status. A T Nonimmigrant Status (“T Visa”) does much the same thing but is reserved for victims of human trafficking. Youth who do not meet the requirements for either of those visas but have been abandoned, abused or neglected may be referred for vulnerable youth guardianships. Some of the attorneys take additional steps to screen for abuse.

“We screen for abuse – we meet with the clients individually, and try to find out what the relationship [with the prospective guardian] is like.”

“There should be frank conversations with the youth... A one-on-one conversation initially. I talk to the youth separately, and ask, are you in a safe place, are you able to get your documents, are they making you do anything you don’t want to do. All the way up to court date. On the morning of the court date, I have the interpreter talk to both the youth and the guardian separately and go over the documents. I also make it clear to the guardian that I represent the youth.”

“I usually make a point of checking in with the youth privately, with a translator. I explain attorney-client privilege.”

“I talk to the youth alone, without the guardian present. We always ask, do you feel safe? Have you experienced forced labor with the person you live with? We always screen for the T visa [eligibility].”

What is the court experience like?

The attorney, the youth, and his or her prospective guardian appear in juvenile court after submitting the paperwork for a vulnerable youth guardianship. The judge asks questions of the youth and the guardian to ensure that the requirements for guardianship are met.

“The judges take a lot of interest in these cases, and are interested to hear from youth about how they’re doing. The courts are doing a nice job of checking in with them.”

“The judges have all asked the youth to speak to the court, and asked them questions about how things are going.”

“At the hearings, the judge is clear about how [the youth has] control to end the guardianship, and I let them know that we can work with them to find another guardian if it doesn’t work out.”

“The judges are used to seeing dependencies, which are miserable – putting a kid into foster care. These are feel-good cases for the judges.”

Juvenile court judges in some counties, including King, Pierce and Adams, have required review hearings every six months after granting the guardianships. This practice is not required in statute but is in line with hearings required in dependency cases, which are the cases juvenile court judges typically adjudicate. Attorneys had mixed feelings about whether six-month reviews should be required for vulnerable youth guardianships or be left to the judge’s discretion.

“The statute is written so that it’s really easy to end the guardianship at any time. It seems to be working well to leave decision to the judge about six-month review hearing.”

“[The six-month review] shows the court is still involved, and allows judges to know how things are going with the youth.”

“The four that I’ve done in the last year have not been set for review. I don’t think [required six-month review hearings] would be helpful, because if the youth wants to terminate, all they have to do is file a motion in court and they can terminate.”

“I think the six-month reviews should be for non-family members only. It should be up to the judge’s discretion.”

“I’m not sure how necessary it is, but perhaps the youth would feel more comfortable telling the judge something that they wouldn’t tell me.”

Do you plan to remain in touch with these youth after the guardianships are approved?

Whether attorneys stayed in contact with youths after the guardianships were granted was usually dependent on whether the attorneys were working on SIJ applications for the youth.

“Yes. Both cases were filed when they were 18 and I’m working on the SIJ applications for them.”

“Yes – I am working on the SIJ process for all of them.”

“Generally once the process is finished, we don’t stay in touch, unless they have questions.”

“Yes, I’m representing them in their immigration cases.”

“They have my number, but otherwise they just live their lives.”

Do you have any other thoughts about assessing risk for these youth?

In the interview, the attorneys were encouraged to provide any additional feedback or ideas about evaluating risk levels for the youth they had represented.

“Meeting with the youth on their own is the most important thing – trying to remind them that they are my client, not the guardian.”

“It can take years for SIJ status to be approved ... and then you have to do an application for permanent residency, which takes one to two years. I’ve worked extensively with survivors of domestic violence and trafficking. After working with them for a few years, you build up trust. If they were in a bad situation it’s possible they would end up confiding that to their attorney.”

Conclusion

This evaluation found that vulnerable youth guardianships are working as the Legislature intended. The designation is allowing abandoned, abused or neglected youth who do not have permanent immigration status to live with and be supported by custodial adults as they work to recover from the harm they experienced. The status allows them the opportunity to apply for federal SIJ classification to achieve legal residency status.

There was no evidence that the guardianships put the youth at greater risk of being trafficked than had they not been provided a guardian. In fact, by creating a process through which these youth are brought into court settings and connected with attorneys who can assist them with SIJ applications, the guardianships make it more likely that any abuse the youth was experiencing would be discovered.

Youth who do not have permanent immigration status and do not have supportive relationships are particularly susceptible to becoming victims of human trafficking. In contrast,

youth with guardians gain additional support and protection. Guardian support can provide vulnerable youth with:

- Stable housing
- Assistance meeting their immediate needs
- Guidance as they acclimate to their environments, schools and communities
- Other potential protective factors that can help limit risk factors that make such youth prime targets for trafficking and exploitation

Recommendations

The Washington State Task Force Against the Trafficking of Persons makes the following policy recommendations to support and strengthen the establishment of vulnerable youth guardianships:

One-to-one Meetings with the Youth

Most attorneys interviewed for this report indicated they made it a practice to meet with youth separately from proposed guardians. Many did so at the outset of the process, when first meeting the youth, at times throughout the application process and following the court's approval of the guardianship.

Attorneys who did not embrace this practice explained that youth who were seeking guardianship with known relatives often benefitted from having those relatives in the intake meetings. Attorneys must ask youth about any history of abandonment, abuse and/or neglect, and recounting such experiences can be painful.

“Most of the time their proposed guardian is with them. I ask the guardian questions too. Sometimes I interview them separately, but usually together. The questions are very hard, so it’s helpful to have a relative there to help the youth.”

While allowing proposed guardians to be present during the meetings might be advantageous to youth, it might also dissuade youth from being honest about any reservations they might have about their proposed guardians.

Meeting with the youth separately, at least at the beginning of the guardianship process, is important to establish the guidelines of attorney-client privilege. One-to-one meetings help demonstrate that attorneys are working on behalf of youth and provide opportunities for attorneys to ask questions about youth comfort levels with proposed guardians. These meetings are the first step to establishing trusting relationships in which youth can disclose experiences of abuse or trafficking at later points.

Maintain or Increase Sources of State Funding for Immigration Assistance

Most of the attorneys interviewed for this report work for nonprofit immigration assistance organizations in Washington. These organizations have seen the need for their services increase in recent years due to changes in the federal government's immigration policies.¹⁰ These organizations' budgets depend on private donations, foundation grants and state funding

¹⁰ Syracuse University, Transactional Records Access Clearinghouse (TRAC), TRAC Immigration Tools, https://trac.syr.edu/phptools/reports/reports.php?layer=immigration&report_type=tool

through programs such as the Legal Support and Community Safety Program, administered by the Department of Commerce.

Assisting youth with vulnerable youth guardianships and the SIJ process that follows requires specialized experience and knowledge with both immigration and family law. These organizations work on behalf of some of Washington's most marginalized residents: young immigrants fleeing violence in their countries of origin who have also experienced abandonment or abuse at the hands of their immediate family members. This report recommends maintaining the state funds that support this work and, where possible, increasing it.

Appendix A: Resource Document



STATE OF WASHINGTON WASHINGTON STATE TASK FORCE AGAINST THE TRAFFICKING OF PERSONS

1011 Plum Street SE • PO Box 42525 • Olympia, Washington 98504-2525 • 360-725-2905

You have rights in the United States, regardless of immigration status. If you are being forced to work, please call for help.

If you:

- Are forced to work – for instance, cleaning, cooking, household chores, or agricultural work.
- Are not allowed to leave work or quit your job.
- Are forced to have sex or engage in sexual activity.
- Are not allowed to keep your identification documents or passport.

There are service providers who can help if you have been hurt or harmed by others.

What does this cost? Is it safe to call?

These services are 100 percent confidential. What you say to service providers will be kept completely private. These agencies are not the police or immigration agents. They will not contact the police unless you ask them to. Their services are **FREE**. You don't have to pay money for their services.

Crime Victim Service Center Hotline - (888) 288-9221

Washington State Anti-Trafficking Response Network (WARN) Hotline - (206) 245-0782

Support may include:

- Providing support and guidance.
- Understanding all your rights and options.
- Gaining access to food, clothing, shelter, education and medical care.
- Developing a plan to leave an employer or situation.
- Knowing your rights with government agencies, police, prosecutors, defense attorneys and judges and serve as your advocate.
- Understanding the criminal justice system, if needed.

To see what other resources are available in your area, visit www.commerce.wa.gov/ocva and www.commerce.wa.gov/trafficking.

Document available in Spanish, Russian, Tagalog, Korean, Mandarin, Vietnamese, Somali, and Ukrainian.

Appendix B: Petition for Vulnerable Youth Guardianship

Superior Court of Washington County of _____ <p style="text-align: center;">Juvenile Court</p>	No: _____ Petition to Appoint Vulnerable Youth Guardian (PT)
Vulnerable Youth Guardianship of:	
D.O.B.:	

I. Basis

1.1 Petitioner, _____, is a youth at least 18 and under 21 years old, and seeks the appointment of a vulnerable youth guardian (*name*): _____, who joins in this petition.

1.2 **Information about the youth**

Full Name	
Date of Birth	
Place of Birth	
Home Address	

1.3 **Information about the proposed Vulnerable Youth Guardian**

Full Name	
Date of Birth	
Home Address	

The proposed vulnerable youth guardian is 21 years of age or older and is capable of performing the duties of a vulnerable youth guardian as stated in RCW 13.90.040. The proposed vulnerable youth guardian may include but is not limited to parents, licensed foster parents, relatives, or other suitable persons, as defined under RCW 13.90.010.

1.4 The youth petitioner is a vulnerable youth based on:

- abuse abandonment neglect by one or both parents.
- one or both parents cannot adequately provide for the youth such that the youth risks physical or psychological harm if the youth returns to the home, or
- another basis under state law pursuant to RCW _____.
Based upon the following:

1.5 The court should find vulnerable youth guardianship is in the best interest of the youth for the reasons stated above and for the following additional reasons (*please specify*):

1.6 The following circumstances apply:

- (a) The youth is over 18 years of age but has not yet turned 21 years old;
- (b) The youth requests the support of a responsible adult;
- (c) The youth is not a “non-minor dependent” who is participating in extended foster care services authorized under RCW 74.13.031;
- (d) The proposed guardian has agreed to join in the vulnerable youth guardianship petition;
- (e) The proposed guardian is suitable, agrees to serve as a guardian, and is capable of performing the duties of a guardian as stated in RCW 13.90.040; and
- (f) The proposed guardian signed a declaration acknowledging the guardian’s rights and responsibilities toward the vulnerable youth and affirming the guardian’s understanding and acceptance that the guardianship is a commitment to provide care for the vulnerable youth until s/he reaches age 21 or until such time that the court grants the vulnerable youth’s or guardian’s request that the vulnerable youth guardianship be modified or terminated.

1.7 Other: _____

II. Relief Requested

Petitioner requests the court to:

- 2.1 appoint a vulnerable youth guardian for the youth.
- 2.2 order the vulnerable youth guardianship to remain in effect until the vulnerable youth reaches the age of 21 years.
- 2.3 grant the proposed vulnerable youth guardian custody of the youth and specify the proposed vulnerable youth guardian’s rights and responsibilities concerning the care, custody, and nurturing of the vulnerable youth.

2.4. Other: _____

Dated: _____

Petitioner

Type or Print Name/Title

Dated: _____

Petitioner's Lawyer

Type or Print Name/Title WSBA No.

III. Certification

I certify under penalty of perjury under the laws of the state of Washington that the representations in the foregoing Petition for Order Appointing Vulnerable Youth Guardianship are true and correct.

Dated at _____(city), Washington on _____ (date)

Signature of Petitioner

Type or Print Name

Address

Telephone Number

IV. Statement of Proposed Vulnerable Youth Guardian

I, _____ (proposed vulnerable youth guardian's name), the proposed vulnerable youth guardian join in this petition and request that the court appoint me as the vulnerable youth guardian for _____ (youth's name).

Dated: _____

Proposed Vulnerable Youth Guardian

Type or Print Name

Appendix C: Cover Letter for Background Check

SUPERIOR COURT OF WASHINGTON
COUNTY OF _____
JUVENILE COURT

Vulnerable Youth Guardianship of:

D.O.B.:

No:

Criminal History Record
(Cover Sheet)

(XCRIM)

I have asked the Washington State Patrol for my criminal history record as the proposed Vulnerable Youth Guardian. Attached are the records I received.



Proposed Vulnerable Youth Guardian signs here

Print name

Date

Appendix D: WSP Background Check Application

WASHINGTON STATE PATROL
Identification and Background Check Section
PO Box 42633
Olympia WA 98504-2633
(360) 534-2000
<http://watch.wsp.wa.gov>



REQUEST FOR CONVICTION CRIMINAL HISTORY RECORD (RCW 10.97)

- \$16 Fee — Conviction Criminal History Record Information Based on Name and Date of Birth**
- For a \$12 fee and an immediate response using a credit card, access our web site listed above.
- \$38 Fee — Conviction Criminal History Record Information Based on Fingerprints**
- A full set of fingerprints on a fingerprint card is required for processing.
- \$10 Fee per Notary Seal — Notary Letter(s) in Addition to Criminal History Record Check**
- Requesting _____ Notarized Letter(s)

NOTE: The requested record information is furnished solely on the basis of name and/or description similarity with the subject of your inquiry. Positive identification or non-identification can only be effected upon receipt of fingerprints. Applicant may be advised of inquiry.

SUBJECT INFORMATION: (Please type or print clearly)

Applicant's Name _____
Last First Middle

Alias/Maiden Name/Other Names Used _____

Date of Birth _____
Month/Day/Year

REQUESTOR INFORMATION: (Please type or print clearly)

Name _____

Address _____

City State ZIP Code

Contact Phone Number (____) _____

Would you like your results e-mailed or mailed? (Please select only one)

Mailed (It may take 7 to 14 business days for response, when mailed.)

E-Mailed*

E-Mail Address _____

Password _____

(Password must be 8-15 characters)

* Results can only be e-mailed for name and date of birth inquiries. Fingerprint-based background checks and notary letters will be mailed. Password is required to open encrypted PDF results.

3000-240-569 (R 6/18)