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**SUBSTITUTE SENATE BILL 6871**

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**State of Washington**

**60th Legislature**

**2008 Regular Session**

**By** Senate Human Services & Corrections (originally sponsored by Senator Hargrove)

READ FIRST TIME 02/08/08.

1 AN ACT Relating to contracting for services provided to dependent  
2 children; amending RCW 74.13.031, 74.13.165, and 41.06.142; creating  
3 new sections; and providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** In November 2007, the Washington state  
6 children's administration workload study was released. Among other  
7 areas, the study authors recommended areas for improved efficiency.  
8 They pointed out a number of areas in which social workers spent  
9 considerable time on noncase carrying activities to the detriment of  
10 the children and families they serve and recommended a different  
11 approach to some of these areas which might relieve some of the  
12 workload of social workers. These approaches include having others  
13 complete some of the data processing, prioritizing face-to-face  
14 contacts in dependency services, contracting out supervised visits, and  
15 contracting out client transportation.

16 In addition, in each of the department of social and health  
17 services' regions across the state, there are numerous legally free  
18 children with identified adoptive homes who remain in foster care

1 because the department social workers have not had sufficient time to  
2 complete the home studies necessary for the completion of the  
3 adoptions.

4 **Sec. 2.** RCW 74.13.031 and 2007 c 413 s 10 are each amended to read  
5 as follows:

6 The department shall have the duty to provide child welfare  
7 services and shall:

8 (1) Develop, administer, supervise, and monitor a coordinated and  
9 comprehensive plan that establishes, aids, and strengthens services for  
10 the protection and care of runaway, dependent, or neglected children.

11 (2) Within available resources, recruit an adequate number of  
12 prospective adoptive and foster homes, both regular and specialized,  
13 i.e. homes for children of ethnic minority, including Indian homes for  
14 Indian children, sibling groups, handicapped and emotionally disturbed,  
15 teens, pregnant and parenting teens, and annually report to the  
16 governor and the legislature concerning the department's success in:  
17 (a) Meeting the need for adoptive and foster home placements; (b)  
18 reducing the foster parent turnover rate; (c) completing home studies  
19 for legally free children; and (d) implementing and operating the  
20 passport program required by RCW 74.13.285. The report shall include  
21 a section entitled "Foster Home Turn-Over, Causes and Recommendations."

22 (3) Investigate complaints of any recent act or failure to act on  
23 the part of a parent or caretaker that results in death, serious  
24 physical or emotional harm, or sexual abuse or exploitation, or that  
25 presents an imminent risk of serious harm, and on the basis of the  
26 findings of such investigation, offer child welfare services in  
27 relation to the problem to such parents, legal custodians, or persons  
28 serving in loco parentis, and/or bring the situation to the attention  
29 of an appropriate court, or another community agency(~~(+—PROVIDED,~~  
30 ~~That)~~). An investigation is not required of nonaccidental injuries  
31 which are clearly not the result of a lack of care or supervision by  
32 the child's parents, legal custodians, or persons serving in loco  
33 parentis. If the investigation reveals that a crime against a child  
34 may have been committed, the department shall notify the appropriate  
35 law enforcement agency.

36 (4) Offer, on a voluntary basis, family reconciliation services to  
37 families who are in conflict.

1       (5)(a) Monitor out-of-home placements(~~(, on a timely and routine~~  
2 ~~basis,)) and conduct face-to-face meetings with children in out-of-home  
3 care and their caregivers every thirty days to assure the safety, well-  
4 being, and quality of care being provided is within the scope of the  
5 intent of the legislature as defined in RCW 74.13.010 and 74.15.010(~~(,~~  
6 ~~and annually submit a report measuring the extent to which the~~  
7 ~~department achieved the specified goals to the governor and the~~  
8 ~~legislature))).~~~~

9       **(b) When a child's case is being managed by a private agency**  
10 **pursuant to a contract between the department and the private agency,**  
11 **the private agency shall conduct the thirty-day face-to-face visits**  
12 **with the child and the caregiver, and report promptly to the department**  
13 **in writing on the visit. In these cases, the department need not also**  
14 **conduct a thirty-day visit.**

15       (6) Have authority to accept custody of children from parents and  
16 to accept custody of children from juvenile courts, where authorized to  
17 do so under law, to provide child welfare services including placement  
18 for adoption, to provide for the routine and necessary medical, dental,  
19 and mental health care, or necessary emergency care of the children,  
20 and to provide for the physical care of such children and make payment  
21 of maintenance costs if needed. Except where required by Public Law  
22 95-608 (25 U.S.C. Sec. 1915), no private adoption agency which receives  
23 children for adoption from the department shall discriminate on the  
24 basis of race, creed, or color when considering applications in their  
25 placement for adoption.

26       (7) Have authority to provide temporary shelter to children who  
27 have run away from home and who are admitted to crisis residential  
28 centers.

29       (8) Have authority to purchase care for children; and shall follow  
30 in general the policy of using properly approved private agency  
31 services for the actual care and supervision of such children insofar  
32 as they are available, paying for care of such children as are accepted  
33 by the department as eligible for support at reasonable rates  
34 established by the department.

35       (9) Establish a children's services advisory committee which shall  
36 assist the secretary in the development of a partnership plan for  
37 utilizing resources of the public and private sectors, and advise on

1 all matters pertaining to child welfare, licensing of child care  
2 agencies, adoption, and services related thereto. At least one member  
3 shall represent the adoption community.

4 (10)(a) Have authority to provide continued foster care or group  
5 care as needed to participate in or complete a high school or  
6 vocational school program.

7 (b)(i) Beginning in 2006, the department has the authority to allow  
8 up to fifty youth reaching age eighteen to continue in foster care or  
9 group care as needed to participate in or complete a posthigh school  
10 academic or vocational program, and to receive necessary support and  
11 transition services.

12 (ii) In 2007 and 2008, the department has the authority to allow up  
13 to fifty additional youth per year reaching age eighteen to remain in  
14 foster care or group care as provided in (b)(i) of this subsection.

15 (iii) A youth who remains eligible for such placement and services  
16 pursuant to department rules may continue in foster care or group care  
17 until the youth reaches his or her twenty-first birthday. Eligibility  
18 requirements shall include active enrollment in a posthigh school  
19 academic or vocational program and maintenance of a 2.0 grade point  
20 average.

21 (11) Refer cases to the division of child support whenever state or  
22 federal funds are expended for the care and maintenance of a child,  
23 including a child with a developmental disability who is placed as a  
24 result of an action under chapter 13.34 RCW, unless the department  
25 finds that there is good cause not to pursue collection of child  
26 support against the parent or parents of the child. Cases involving  
27 individuals age eighteen through twenty shall not be referred to the  
28 division of child support unless required by federal law.

29 (12) Have authority within funds appropriated for foster care  
30 services to purchase care for Indian children who are in the custody of  
31 a federally recognized Indian tribe or tribally licensed child-placing  
32 agency pursuant to parental consent, tribal court order, or state  
33 juvenile court order; and the purchase of such care shall be subject to  
34 the same eligibility standards and rates of support applicable to other  
35 children for whom the department purchases care.

36 Notwithstanding any other provision of RCW 13.32A.170 through  
37 13.32A.200 and 74.13.032 through 74.13.036, or of this section all  
38 services to be provided by the department of social and health services

1 under subsections (4), (6), and (7) of this section, subject to the  
2 limitations of these subsections, may be provided by any program  
3 offering such services funded pursuant to Titles II and III of the  
4 federal juvenile justice and delinquency prevention act of 1974.

5 (13) Within amounts appropriated for this specific purpose, provide  
6 preventive services to families with children that prevent or shorten  
7 the duration of an out-of-home placement.

8 (14) Have authority to provide independent living services to  
9 youths, including individuals who have attained eighteen years of age,  
10 and have not attained twenty-one years of age who are or have been in  
11 foster care.

12 (15) Consult at least quarterly with foster parents, including  
13 members of the foster parent association of Washington state, for the  
14 purpose of receiving information and comment regarding how the  
15 department is performing the duties and meeting the obligations  
16 specified in this section and RCW 74.13.250 and 74.13.320 regarding the  
17 recruitment of foster homes, reducing foster parent turnover rates,  
18 providing effective training for foster parents, and administering a  
19 coordinated and comprehensive plan that strengthens services for the  
20 protection of children. Consultation shall occur at the regional and  
21 statewide levels.

22 (16) Starting July 1, 2009, contract with a private agency to  
23 provide all supervised visitation and client transportation services.

24 **Sec. 3.** RCW 74.13.165 and 1997 c 272 s 4 are each amended to read  
25 as follows:

26 (1) The secretary or the secretary's designee may purchase services  
27 from nonprofit agencies for the purpose of conducting home studies for  
28 legally free children who have been awaiting adoption finalization for  
29 more than ninety days. The home studies selected to be done under this  
30 section shall be for the children who have been legally free and  
31 awaiting adoption finalization the longest period of time.

32 (2) Starting July 1, 2009, the secretary or the secretary's  
33 designee shall purchase services from private agencies for the purpose  
34 of conducting home studies for legally free children awaiting adoption.

35 **Sec. 4.** RCW 41.06.142 and 2002 c 354 s 208 are each amended to  
36 read as follows:

1 (1) Any department, agency, or institution of higher education may  
2 purchase services, including services that have been customarily and  
3 historically provided by employees in the classified service under this  
4 chapter, by contracting with individuals, nonprofit organizations,  
5 businesses, employee business units, or other entities if the following  
6 criteria are met:

7 (a) The invitation for bid or request for proposal contains  
8 measurable standards for the performance of the contract;

9 (b) Employees in the classified service whose positions or work  
10 would be displaced by the contract are provided an opportunity to offer  
11 alternatives to purchasing services by contract and, if these  
12 alternatives are not accepted, compete for the contract under  
13 competitive contracting procedures in subsection (4) of this section;

14 (c) The contract with an entity other than an employee business  
15 unit includes a provision requiring the entity to consider employment  
16 of state employees who may be displaced by the contract;

17 (d) The department, agency, or institution of higher education has  
18 established a contract monitoring process to measure contract  
19 performance, costs, service delivery quality, and other contract  
20 standards, and to cancel contracts that do not meet those standards;  
21 and

22 (e) The department, agency, or institution of higher education has  
23 determined that the contract results in savings or efficiency  
24 improvements. The contracting agency must consider the consequences  
25 and potential mitigation of improper or failed performance by the  
26 contractor.

27 (2) Any provision contrary to or in conflict with this section in  
28 any collective bargaining agreement in effect on July 1, 2005, is not  
29 effective beyond the expiration date of the agreement.

30 (3) Contracting for services that is expressly mandated by the  
31 legislature or was authorized by law prior to July 1, 2005, including  
32 contracts and agreements between public entities, shall not be subject  
33 to the processes set forth in subsections (1) (~~and~~), (4) (~~through~~  
34 ~~(6)~~), (5), and (7) of this section.

35 (4) Competitive contracting shall be implemented as follows:

36 (a) At least ninety days prior to the date the contracting agency  
37 requests bids from private entities for a contract for services  
38 provided by classified employees, the contracting agency shall notify

1 the classified employees whose positions or work would be displaced by  
2 the contract. The employees shall have sixty days from the date of  
3 notification to offer alternatives to purchasing services by contract,  
4 and the agency shall consider the alternatives before requesting bids.

5 (b) If the employees decide to compete for the contract, they shall  
6 notify the contracting agency of their decision. Employees must form  
7 one or more employee business units for the purpose of submitting a bid  
8 or bids to perform the services.

9 (c) The director of personnel, with the advice and assistance of  
10 the department of general administration, shall develop and make  
11 available to employee business units training in the bidding process  
12 and general bid preparation.

13 (d) The director of general administration, with the advice and  
14 assistance of the department of personnel, shall, by rule, establish  
15 procedures to ensure that bids are submitted and evaluated in a fair  
16 and objective manner and that there exists a competitive market for the  
17 service. Such rules shall include, but not be limited to: (i)  
18 Prohibitions against participation in the bid evaluation process by  
19 employees who prepared the business unit's bid or who perform any of  
20 the services to be contracted; (ii) provisions to ensure no bidder  
21 receives an advantage over other bidders and that bid requirements are  
22 applied equitably to all parties; and (iii) procedures that require the  
23 contracting agency to receive complaints regarding the bidding process  
24 and to consider them before awarding the contract. Appeal of an  
25 agency's actions under this subsection is an adjudicative proceeding  
26 and subject to the applicable provisions of chapter 34.05 RCW, the  
27 administrative procedure act, with the final decision to be rendered by  
28 an administrative law judge assigned under chapter 34.12 RCW.

29 (e) An employee business unit's bid must include the fully  
30 allocated costs of the service, including the cost of the employees'  
31 salaries and benefits, space, equipment, materials, and other costs  
32 necessary to perform the function. An employee business unit's cost  
33 shall not include the state's indirect overhead costs unless those  
34 costs can be attributed directly to the function in question and would  
35 not exist if that function were not performed in state service.

36 (f) A department, agency, or institution of higher education may  
37 contract with the department of general administration to conduct the  
38 bidding process.

1 (5) As used in this section:

2 (a) "Employee business unit" means a group of employees who perform  
3 services to be contracted under this section and who submit a bid for  
4 the performance of those services under subsection (4) of this section.

5 (b) "Indirect overhead costs" means the pro rata share of existing  
6 agency administrative salaries and benefits, and rent, equipment costs,  
7 utilities, and materials associated with those administrative  
8 functions.

9 (c) "Competitive contracting" means the process by which classified  
10 employees of a department, agency, or institution of higher education  
11 compete with businesses, individuals, nonprofit organizations, or other  
12 entities for contracts authorized by subsection (1) of this section.

13 (6) The requirements of this section do not apply to RCW 74.13.031  
14 and 74.13.165.

15 (7) The joint legislative audit and review committee shall conduct  
16 a performance audit of the implementation of this section, including  
17 the adequacy of the appeals process in subsection (4)(d) of this  
18 section, and report to the legislature by January 1, 2007, on the  
19 results of the audit.

20 NEW SECTION. Sec. 5. The department of social and health services  
21 and the exclusive bargaining representative for the children's  
22 administration social workers shall work together to prioritize social  
23 worker tasks and devise a method by which to alleviate from the social  
24 workers' workload the lower priority tasks. The department and the  
25 bargaining representative shall keep the legislature apprised of their  
26 progress by jointly reporting to the legislature no later than July 1,  
27 2008, and again no later than November 15, 2008.

28 NEW SECTION. Sec. 6. Sections 1 through 4 of this act take effect  
29 July 1, 2009.

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