

SSB 6832 - H COMM AMD

By Committee on Early Learning & Children's Services

ADOPTED 02/28/2010

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that, based upon the
4 work of the child welfare transformation design committee established
5 pursuant to 2SHB 2106 during the 2009 legislative session, several
6 narrowly based amendments to that legislation need to be made, mainly
7 for clarifying purposes. The legislature further finds that two
8 deadlines need to be extended by six months, the first to allow the
9 department of social and health services additional time to complete
10 the conversion of its contracts to performance-based contracts and the
11 second to allow the department additional time to gradually transfer
12 existing cases to supervising agencies in the demonstration sites. The
13 legislature finds that the addition of a foster youth on the child
14 welfare transformation design committee will greatly assist the
15 committee in its work.

16 The legislature recognizes that clarifying language regarding
17 Indian tribes should be added regarding the government-to-government
18 relationship the tribes have with the state. The legislature further
19 recognizes that language is needed regarding the department's ability
20 to receive federal funding based upon the recommendations made by the
21 child welfare transformation design committee.

22 **Sec. 2.** RCW 74.13.368 and 2009 c 520 s 8 are each amended to read
23 as follows:

24 (1)(a) The child welfare transformation design committee is
25 established, with members as provided in this subsection.

26 (i) The governor or the governor's designee;

27 (ii) Four private agencies that, as of May 18, 2009, provide child
28 welfare services to children and families referred to them by the
29 department. Two agencies must be headquartered in western Washington

1 and two must be headquartered in eastern Washington. Two agencies must
2 have an annual budget of at least one million state-contracted dollars
3 and two must have an annual budget of less than one million state-
4 contracted dollars;

5 (iii) The assistant secretary of the children's administration in
6 the department;

7 (iv) Two regional administrators in the children's administration
8 selected by the assistant secretary, one from one of the department's
9 administrative regions one or two, and one from one of the department's
10 administrative regions three, four, five, or six;

11 (v) The administrator for the division of licensed resources in the
12 children's administration;

13 (vi) Two nationally recognized experts in performance-based
14 contracts;

15 (vii) The attorney general or the attorney general's designee;

16 (viii) A representative of the collective bargaining unit that
17 represents the largest number of employees in the children's
18 administration;

19 (ix) A representative from the office of the family and children's
20 ombudsman;

21 (x) Four representatives from the Indian policy advisory committee
22 convened by the department's office of Indian policy and support
23 services;

24 (xi) Two currently elected or former superior court judges with
25 significant experience in dependency matters, selected by the superior
26 court judge's association;

27 (xii) One representative from partners for our children affiliated
28 with the University of Washington school of social work;

29 (xiii) A member of the Washington state racial disproportionality
30 advisory committee;

31 (xiv) A foster parent; (~~and~~)

32 (xv) A youth currently in or a recent alumnus of the Washington
33 state foster care system, to be designated by the cochairs of the
34 committee; and

35 (xvi) A parent representative who has had personal experience with
36 the dependency system.

37 (b) The president of the senate and the speaker of the house of

1 representatives shall jointly appoint the members under (a)(ii), (xiv),
2 and (~~(xv)~~) (xvi) of this subsection.

3 (c) The representative from partners for our children shall convene
4 the initial meeting of the committee no later than June 15, 2009.

5 (d) The cochairs of the committee shall be the assistant secretary
6 for the children's administration and another member selected by a
7 majority vote of those members present at the initial meeting.

8 (2) The committee shall establish a transition plan containing
9 recommendations to the legislature and the governor consistent with
10 this section for the provision of child welfare services by supervising
11 agencies pursuant to RCW 74.13.360.

12 (3) The plan shall include the following:

13 (a) A model or framework for performance-based contracts to be used
14 by the department that clearly defines:

15 (i) The target population;

16 (ii) The referral and exit criteria for the services;

17 (iii) The child welfare services including the use of evidence-
18 based services and practices to be provided by contractors;

19 (iv) The roles and responsibilities of public and private agency
20 workers in key case decisions;

21 (v) Contract performance and outcomes, including those related to
22 eliminating racial disparities in child outcomes;

23 (vi) That supervising agencies will provide culturally competent
24 service;

25 (vii) How to measure whether each contractor has met the goals
26 listed in RCW 74.13.360(5); and

27 (viii) Incentives to meet performance outcomes;

28 (b) A method by which the department will substantially reduce its
29 current number of contracts for child welfare services;

30 (c) A method or methods by which clients will access community-
31 based services, how private supervising agencies will engage other
32 services or form local service networks, develop subcontracts, and
33 share information and supervision of children;

34 (d) Methods to address the effects of racial disproportionality, as
35 identified in the 2008 Racial Disproportionality Advisory Committee
36 Report published by the Washington state institute for public policy in
37 June 2008;

1 (e) Methods for inclusion of the principles and requirements of the
2 centennial accord executed in November 2001, executed between the state
3 of Washington and federally recognized tribes in Washington state;

4 (f) Methods for assuring performance-based contracts adhere to the
5 letter and intent of the federal Indian child welfare act;

6 (g) Contract monitoring and evaluation procedures that will ensure
7 that children and families are receiving timely and quality services
8 and that contract terms are being implemented;

9 (h) A method or methods by which to ensure that the children's
10 administration has sufficiently trained and experienced staff to
11 monitor and manage performance-based contracts;

12 (i) A process by which to expand the capacity of supervising and
13 other private agencies to meet the service needs of children and
14 families in a performance-based contractual arrangement;

15 (j) A method or methods by which supervising and other private
16 agencies can expand services in underserved areas of the state;

17 (k) The appropriate amounts and procedures for the reimbursement of
18 supervising agencies given the proposed services restructuring;

19 (l) A method by which to access and enhance existing data systems
20 to include contract performance information;

21 (m) A financing arrangement for the contracts that examines:

22 (i) The use of case rates or performance-based fee-for-service
23 contracts that include incentive payments or payment schedules that
24 link reimbursement to outcomes; and

25 (ii) Ways to reduce a contractor's financial risk that could
26 jeopardize the solvency of the contractor, including consideration of
27 the use of a risk-reward corridor that limits risk of loss and
28 potential profits or the establishment of a statewide risk pool;

29 (n) A description of how the transition will impact the state's
30 ability to obtain federal funding and examine options to further
31 maximize federal funding opportunities and increased flexibility;

32 (o) A review of whether current administrative staffing levels in
33 the regions should be continued when the majority of child welfare
34 services are being provided by supervising agencies;

35 (p) A description of the costs of the transition, the initial
36 start-up costs and the mechanisms to periodically assess the overall
37 adequacy of funds and the fiscal impact of the changes, and the

1 feasibility of the plan and the impact of the plan on department
2 employees during the transition; and

3 (q) Identification of any statutory and regulatory revisions
4 necessary to accomplish the transition.

5 (4)(a) The committee, with the assistance of the department, shall
6 select two demonstration sites within which to implement chapter 520,
7 Laws of 2009. One site must be located on the eastern side of the
8 state. The other site must be located on the western side of the
9 state. Neither site must be wholly located in any of the department's
10 administrative regions.

11 (b) The committee shall develop two sets of performance outcomes to
12 be included in the performance-based contracts the department enters
13 into with supervising agencies. The first set of outcomes shall be
14 used for those cases transferred to a supervising agency over time.
15 The second set of outcomes shall be used for new entrants to the child
16 welfare system.

17 (c) The committee shall also identify methods for ensuring that
18 comparison of performance between supervising agencies and the existing
19 service delivery system takes into account the variation in the
20 characteristics of the populations being served as well as historical
21 trends in outcomes for those populations.

22 (5) The committee shall determine the appropriate size of the child
23 and family populations to be provided services under performance-based
24 contracts with supervising agencies. The committee shall also identify
25 the time frame within which cases will be transferred to supervising
26 agencies. The performance-based contracts entered into with
27 supervising agencies shall encompass the provision of child welfare
28 services to enough children and families in each demonstration site to
29 allow for the assessment of whether there are meaningful differences,
30 to be defined by the committee, between the outcomes achieved in the
31 demonstration sites and the comparison sites or populations. To ensure
32 adequate statistical power to assess these differences, the populations
33 served shall be large enough to provide a probability greater than
34 seventy percent that meaningful difference will be detected and a
35 ninety-five percent probability that observed differences are not due
36 to chance alone.

37 (6) The committee shall also prepare as part of the plan a

1 recommendation as to how to implement chapter 520, Laws of 2009 so that
2 full implementation of chapter 520, Laws of 2009 is achieved no later
3 than ((June)) December 30, 2012.

4 (7) The committee shall prepare the plan to manage the delivery of
5 child welfare services in a manner that achieves coordination of the
6 services and programs that deliver primary prevention services.

7 (8) Beginning June 30, 2009, the committee shall report quarterly
8 to the governor and the legislative children's oversight committee
9 established in RCW 44.04.220. From June 30, 2012, until January 1,
10 2015, the committee need only report twice a year. The committee shall
11 report on its progress in meeting its duties under subsections (2) and
12 (3) of this section and on any other matters the committee or the
13 legislative children's oversight committee or the governor deems
14 appropriate. The portion of the plan required in subsection (6) of
15 this section shall be due to the legislative children's oversight
16 committee on or before June 1, 2010. The reports shall be in written
17 form.

18 (9) The committee, by majority vote, may establish advisory
19 committees as it deems necessary.

20 (10) All state executive branch agencies and the agencies with whom
21 the department contracts for child welfare services shall cooperate
22 with the committee and provide timely information as the chair or
23 cochairs may request. Cooperation by the children's administration
24 must include developing and scheduling training for supervising
25 agencies to access data and information necessary to implement and
26 monitor the contracts.

27 (11) It is expected that the administrative costs for the committee
28 will be supported through private funds.

29 (12) Staff support for the committee shall be provided jointly by
30 partners for our children and legislative staff.

31 (13) The committee is subject to chapters 42.30 (open public
32 meetings act) and 42.52 (ethics in public service) RCW.

33 (14) This section expires July 1, 2015.

34 **Sec. 3.** RCW 74.13.020 and 2009 c 520 s 2 and 2009 c 235 s 3 are
35 each reenacted and amended to read as follows:

36 For purposes of this chapter:

1 (1) "Case management" means the management of services delivered to
2 children and families in the child welfare system, including permanency
3 services, caseworker-child visits, family visits, the convening of
4 family group conferences, the development and revision of the case
5 plan, the coordination and monitoring of services needed by the child
6 and family, and the assumption of court-related duties, excluding legal
7 representation, including preparing court reports, attending judicial
8 hearings and permanency hearings, and ensuring that the child is
9 progressing toward permanency within state and federal mandates,
10 including the Indian child welfare act.

11 (2) "Child" means a person less than eighteen years of age.

12 (3) "Child protective services" has the same meaning as in RCW
13 26.44.020.

14 (4) "Child welfare services" means social services including
15 voluntary and in-home services, out-of-home care, case management, and
16 adoption services which strengthen, supplement, or substitute for,
17 parental care and supervision for the purpose of:

18 (a) Preventing or remedying, or assisting in the solution of
19 problems which may result in families in conflict, or the neglect,
20 abuse, exploitation, or criminal behavior of children;

21 (b) Protecting and caring for dependent, abused, or neglected
22 children;

23 (c) Assisting children who are in conflict with their parents, and
24 assisting parents who are in conflict with their children, with
25 services designed to resolve such conflicts;

26 (d) Protecting and promoting the welfare of children, including the
27 strengthening of their own homes where possible, or, where needed;

28 (e) Providing adequate care of children away from their homes in
29 foster family homes or day care or other child care agencies or
30 facilities.

31 "Child welfare services" does not include child protection
32 services.

33 (5) "Committee" means the child welfare transformation design
34 committee.

35 (6) "Department" means the department of social and health
36 services.

37 (7) "Measurable effects" means a statistically significant change

1 which occurs as a result of the service or services a supervising
2 agency is assigned in a performance-based contract, in time periods
3 established in the contract.

4 (8) "Out-of-home care services" means services provided after the
5 shelter care hearing to or for children in out-of-home care, as that
6 term is defined in RCW 13.34.030, and their families, including the
7 recruitment, training, and management of foster parents, the
8 recruitment of adoptive families, and the facilitation of the adoption
9 process, family reunification, independent living, emergency shelter,
10 residential group care, and foster care, including relative placement.

11 (9) "Performance-based contracting" means the structuring of all
12 aspects of the procurement of services around the purpose of the work
13 to be performed and the desired results with the contract requirements
14 set forth in clear, specific, and objective terms with measurable
15 outcomes. Contracts shall also include provisions that link the
16 performance of the contractor to the level and timing of reimbursement.

17 (10) "Permanency services" means long-term services provided to
18 secure a child's safety, permanency, and well-being, including foster
19 care services, family reunification services, adoption services, and
20 preparation for independent living services.

21 (11) "Primary prevention services" means services which are
22 designed and delivered for the primary purpose of enhancing child and
23 family well-being and are shown, by analysis of outcomes, to reduce the
24 risk to the likelihood of the initial need for child welfare services.

25 (12) "Supervising agency" means an agency licensed by the state
26 under RCW 74.15.090, or (~~an~~) licensed by a federally recognized
27 Indian tribe located in this state under RCW 74.15.190, that has
28 entered into a performance-based contract with the department to
29 provide case management for the delivery and documentation of child
30 welfare services, as defined in this section.

31 **Sec. 4.** RCW 74.13.360 and 2009 c 520 s 3 are each amended to read
32 as follows:

33 (1) No later than (~~January~~) July 1, 2011, the department shall
34 convert its current contracts with providers of child welfare services
35 into performance-based contracts. In accomplishing this conversion,
36 the department shall decrease the total number of contracts it uses to
37 purchase child welfare services from providers. The conversion of

1 contracts for the provision of child welfare services to performance-
2 based contracts must be done in a manner that does not adversely affect
3 the state's ability to continue to obtain federal funding for child
4 welfare related functions currently performed by the state and with
5 consideration of options to further maximize federal funding
6 opportunities and increase flexibility in the use of such funds,
7 including use for preventive and in-home child welfare services.

8 (2) No later than (~~July 1~~) December 30, 2012:

9 (a) In the demonstration sites selected under RCW 74.13.368(4)(a),
10 child welfare services shall be provided by supervising agencies with
11 whom the department has entered into performance-based contracts.
12 Supervising agencies may enter into subcontracts with other licensed
13 agencies; and

14 (b) Except as provided in subsection (4) of this section, and
15 notwithstanding any law to the contrary, the department may not
16 directly provide child welfare services to families and children
17 provided child welfare services by supervising agencies in the
18 demonstration sites selected under RCW 74.13.368(4)(a).

19 (3) No later than (~~July 1~~) December 30, 2012, for families and
20 children provided child welfare services by supervising agencies in the
21 demonstration sites selected under RCW 74.13.368(4)(a), the department
22 is responsible for only the following:

23 (a) Monitoring the quality of services for which the department
24 contracts under this chapter;

25 (b) Ensuring that the services are provided in accordance with
26 federal law and the laws of this state, including the Indian child
27 welfare act;

28 (c) Providing child protection functions and services, including
29 intake and investigation of allegations of child abuse or neglect,
30 emergency shelter care functions under RCW 13.34.050, and referrals to
31 appropriate providers; and

32 (d) Issuing licenses pursuant to chapter 74.15 RCW.

33 (4) No later than (~~July 1~~) December 30, 2012, for families and
34 children provided child welfare services by supervising agencies in the
35 demonstration sites selected under RCW 74.13.368(4)(a), the department
36 may provide child welfare services only:

37 (a) For the limited purpose of establishing a control or comparison
38 group as deemed necessary by the child welfare transformation design

1 committee, with input from the Washington state institute for public
2 policy, to implement the demonstration sites selected and defined
3 pursuant to RCW 74.13.368(4)(a) in which the performance in achieving
4 measurable outcomes will be compared and evaluated pursuant to RCW
5 74.13.370; or

6 (b) In an emergency or as a provider of last resort. The
7 department shall adopt rules describing the circumstances under which
8 the department may provide those services. For purposes of this
9 section, "provider of last resort" means the department is unable to
10 contract with a private agency to provide child welfare services in a
11 particular geographic area or, after entering into a contract with a
12 private agency, either the contractor or the department terminates the
13 contract.

14 (5) For purposes of this chapter, on and after September 1, 2010,
15 performance-based contracts shall be structured to hold the supervising
16 agencies accountable for achieving the following goals in order of
17 importance: Child safety; child permanency, including reunification;
18 and child well-being.

19 (6) A federally recognized tribe located in this state may enter
20 into a performance-based contract with the department to provide child
21 welfare services to Indian children whether or not they reside on a
22 reservation. Nothing in this section prohibits a federally recognized
23 Indian tribe located in this state from providing child welfare
24 services to its members or other Indian children pursuant to existing
25 tribal law, regulation, or custom, or from directly entering into
26 agreements for the provision of such services with the department, if
27 the department continues to otherwise provide such services, or with
28 federal agencies.

29 **Sec. 5.** RCW 74.13.364 and 2009 c 520 s 5 are each amended to read
30 as follows:

31 Children whose cases are managed by a supervising agency as defined
32 in RCW 74.13.020 remain under the care and placement authority of the
33 state. The child welfare transformation design committee, in selecting
34 demonstration sites for the provision of child welfare services under
35 RCW 74.13.368(4), shall maintain the placement and care authority of
36 the state over children receiving child welfare services at a level
37 that does not adversely affect the state's ability to continue to

1 obtain federal funding for child welfare related functions currently
2 performed by the state and with consideration of options to further
3 maximize federal funding opportunities and increase flexibility in the
4 use of such funds, including use for preventive and in-home child
5 welfare services.

6 **Sec. 6.** RCW 74.13.366 and 2009 c 520 s 6 are each amended to read
7 as follows:

8 ~~((Performance based contracts with private nonprofit entities who~~
9 ~~otherwise meet the definition of supervising agency shall receive~~
10 ~~primary preference. This section does not apply to Indian tribes.))~~
11 For the purposes of the provision of child welfare services by
12 supervising agencies under this act, the department shall give primary
13 preference for performance-based contracts to private nonprofit
14 entities, including federally recognized Indian tribes located in this
15 state, who otherwise meet the definition of supervising agency under
16 RCW 74.13.020. In any continuation or expansion of delivery of child
17 welfare services purchased through the use of performance-based
18 contracts under the provisions of RCW 74.13.372, when all other
19 elements of the bids are equal, private nonprofit entities, federally
20 recognized Indian tribes located in this state, and state employees
21 shall receive primary preference over private for profit entities."

22 Correct the title.

EFFECT: Makes two technical corrections by replacing the plural noun, alumni, with the singular noun, alumnus, and more accurately characterizing the authority of the Transformation Design Committee to select the demonstration sites and the authority of the Washington State Institute for Public Policy to conduct the evaluation of the demonstration sites. Specifies that the primary preference for contracting with private nonprofit entities, federally recognized Indian tribes, and state employees, for the purchase of child welfare services under performance-based contracts after June 1, 2015, applies when all other elements of the bids are equal.

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