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**SUBSTITUTE SENATE BILL 6832**

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**State of Washington**

**61st Legislature**

**2010 Regular Session**

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

READ FIRST TIME 02/05/10.

1        AN ACT Relating to the implementation of delivery of child welfare  
2 services through performance-based contracts by adding a foster youth  
3 representative to the child welfare transformation design committee; by  
4 clarifying the definition of supervising agency in relation to Indian  
5 tribes located in this state; by extending for six months the date by  
6 which the department must complete its contract conversion to  
7 performance-based contracts; by requiring that the performance contract  
8 conversion be accomplished in a manner that does not affect the  
9 department's ability to collect federal funding; by extending by six  
10 months the date by which supervising agencies must provide case  
11 management services in the demonstration sites; by clarifying that the  
12 primary preference for contracts if the demonstration sites are  
13 extended is with nonprofits, Indian tribes, and state employees; by  
14 clarifying that the department may provide child welfare services in  
15 the demonstration sites but only for the purpose of establishing a  
16 control or comparison group; amending RCW 74.13.368, 74.13.360,  
17 74.13.364, and 74.13.366; reenacting and amending RCW 74.13.020; and  
18 creating a new section.

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

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

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

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

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

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

25        (ii)    Four private agencies that, as of May 18, 2009, provide child  
26 welfare services to children and families referred to them by the  
27 department.    Two agencies must be headquartered in western Washington  
28 and two must be headquartered in eastern Washington.    Two agencies must  
29 have an annual budget of at least one million state-contracted dollars  
30 and two must have an annual budget of less than one million state-  
31 contracted dollars;

32        (iii)    The assistant secretary of the children's administration in  
33 the department;

34        (iv)    Two regional administrators in the children's administration  
35 selected by the assistant secretary, one from one of the department's  
36 administrative regions one or two, and one from one of the department's  
37 administrative regions three, four, five, or six;

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

3 (vi) Two nationally recognized experts in performance-based  
4 contracts;

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

6 (viii) A representative of the collective bargaining unit that  
7 represents the largest number of employees in the children's  
8 administration;

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

11 (x) Four representatives from the Indian policy advisory committee  
12 convened by the department's office of Indian policy and support  
13 services;

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

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

19 (xiii) A member of the Washington state racial disproportionality  
20 advisory committee;

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

22 (xv) A youth currently in or a recent alumni of the Washington  
23 state foster care system, to be designated by the cochairs of the  
24 committee; and

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

27 (b) The president of the senate and the speaker of the house of  
28 representatives shall jointly appoint the members under (a)(ii), (xiv),  
29 and (~~(xv)~~) (xvi) of this subsection.

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

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

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

1 (3) The plan shall include the following:

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

4 (i) The target population;

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

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

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

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

12 (vi) That supervising agencies will provide culturally competent  
13 service;

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

16 (viii) Incentives to meet performance outcomes;

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

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

23 (d) Methods to address the effects of racial disproportionality, as  
24 identified in the 2008 Racial Disproportionality Advisory Committee  
25 Report published by the Washington state institute for public policy in  
26 June 2008;

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

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

32 (g) Contract monitoring and evaluation procedures that will ensure  
33 that children and families are receiving timely and quality services  
34 and that contract terms are being implemented;

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

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

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

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

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

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

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

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

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

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

24 (p) A description of the costs of the transition, the initial  
25 start-up costs and the mechanisms to periodically assess the overall  
26 adequacy of funds and the fiscal impact of the changes, and the  
27 feasibility of the plan and the impact of the plan on department  
28 employees during the transition; and

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

31 (4)(a) The committee, with the assistance of the department, shall  
32 select two demonstration sites within which to implement chapter 520,  
33 Laws of 2009. One site must be located on the eastern side of the  
34 state. The other site must be located on the western side of the  
35 state. Neither site must be wholly located in any of the department's  
36 administrative regions.

37 (b) The committee shall develop two sets of performance outcomes to  
38 be included in the performance-based contracts the department enters

1 into with supervising agencies. The first set of outcomes shall be  
2 used for those cases transferred to a supervising agency over time.  
3 The second set of outcomes shall be used for new entrants to the child  
4 welfare system.

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

10 (5) The committee shall determine the appropriate size of the child  
11 and family populations to be provided services under performance-based  
12 contracts with supervising agencies. The committee shall also identify  
13 the time frame within which cases will be transferred to supervising  
14 agencies. The performance-based contracts entered into with  
15 supervising agencies shall encompass the provision of child welfare  
16 services to enough children and families in each demonstration site to  
17 allow for the assessment of whether there are meaningful differences,  
18 to be defined by the committee, between the outcomes achieved in the  
19 demonstration sites and the comparison sites or populations. To ensure  
20 adequate statistical power to assess these differences, the populations  
21 served shall be large enough to provide a probability greater than  
22 seventy percent that meaningful difference will be detected and a  
23 ninety-five percent probability that observed differences are not due  
24 to chance alone.

25 (6) The committee shall also prepare as part of the plan a  
26 recommendation as to how to implement chapter 520, Laws of 2009 so that  
27 full implementation of chapter 520, Laws of 2009 is achieved no later  
28 than (~~June~~) December 30, 2012.

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

32 (8) Beginning June 30, 2009, the committee shall report quarterly  
33 to the governor and the legislative children's oversight committee  
34 established in RCW 44.04.220. From June 30, 2012, until January 1,  
35 2015, the committee need only report twice a year. The committee shall  
36 report on its progress in meeting its duties under subsections (2) and  
37 (3) of this section and on any other matters the committee or the  
38 legislative children's oversight committee or the governor deems

1 appropriate. The portion of the plan required in subsection (6) of  
2 this section shall be due to the legislative children's oversight  
3 committee on or before June 1, 2010. The reports shall be in written  
4 form.

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

7 (10) All state executive branch agencies and the agencies with whom  
8 the department contracts for child welfare services shall cooperate  
9 with the committee and provide timely information as the chair or  
10 cochairs may request. Cooperation by the children's administration  
11 must include developing and scheduling training for supervising  
12 agencies to access data and information necessary to implement and  
13 monitor the contracts.

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

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

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

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

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

23 For purposes of this chapter:

24 (1) "Case management" means the management of services delivered to  
25 children and families in the child welfare system, including permanency  
26 services, caseworker-child visits, family visits, the convening of  
27 family group conferences, the development and revision of the case  
28 plan, the coordination and monitoring of services needed by the child  
29 and family, and the assumption of court-related duties, excluding legal  
30 representation, including preparing court reports, attending judicial  
31 hearings and permanency hearings, and ensuring that the child is  
32 progressing toward permanency within state and federal mandates,  
33 including the Indian child welfare act.

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

35 (3) "Child protective services" has the same meaning as in RCW  
36 26.44.020.

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

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

8 (b) Protecting and caring for dependent, abused, or neglected  
9 children;

10 (c) Assisting children who are in conflict with their parents, and  
11 assisting parents who are in conflict with their children, with  
12 services designed to resolve such conflicts;

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

15 (e) Providing adequate care of children away from their homes in  
16 foster family homes or day care or other child care agencies or  
17 facilities.

18 "Child welfare services" does not include child protection  
19 services.

20 (5) "Committee" means the child welfare transformation design  
21 committee.

22 (6) "Department" means the department of social and health  
23 services.

24 (7) "Measurable effects" means a statistically significant change  
25 which occurs as a result of the service or services a supervising  
26 agency is assigned in a performance-based contract, in time periods  
27 established in the contract.

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

35 (9) "Performance-based contracting" means the structuring of all  
36 aspects of the procurement of services around the purpose of the work  
37 to be performed and the desired results with the contract requirements



1 set forth in clear, specific, and objective terms with measurable  
2 outcomes. Contracts shall also include provisions that link the  
3 performance of the contractor to the level and timing of reimbursement.

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

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

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

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

20 (1) No later than ((January)) July 1, 2011, the department shall  
21 convert its current contracts with providers of child welfare services  
22 into performance-based contracts. In accomplishing this conversion,  
23 the department shall decrease the total number of contracts it uses to  
24 purchase child welfare services from providers. The conversion of  
25 contracts for the provision of child welfare services to performance-  
26 based contracts must be done in a manner that does not adversely affect  
27 the state's ability to continue to obtain federal funding for child  
28 welfare related functions currently performed by the state and with  
29 consideration of options to further maximize federal funding  
30 opportunities and increase flexibility in the use of such funds,  
31 including use for preventive and in-home child welfare services.

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

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

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

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

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

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

15 (c) Providing child protection functions and services, including  
16 intake and investigation of allegations of child abuse or neglect,  
17 emergency shelter care functions under RCW 13.34.050, and referrals to  
18 appropriate providers; and

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

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

24 (a) For the limited purpose of establishing a control or comparison  
25 group as deemed necessary by the child welfare transformation design  
26 committee pursuant to RCW 74.13.368, with input from the Washington  
27 state institute for public policy, to compare the performance in  
28 achieving measurable outcomes between supervising agencies and the  
29 existing service delivery system in the two demonstration sites  
30 selected under RCW 74.13.368(4); or

31 (b) In an emergency or as a provider of last resort. The  
32 department shall adopt rules describing the circumstances under which  
33 the department may provide those services. For purposes of this  
34 section, "provider of last resort" means the department is unable to  
35 contract with a private agency to provide child welfare services in a  
36 particular geographic area or, after entering into a contract with a  
37 private agency, either the contractor or the department terminates the  
38 contract.

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

6 (6) A federally recognized tribe located in this state may enter  
7 into a performance-based contract with the department to provide child  
8 welfare services to Indian children whether or not they reside on a  
9 reservation. Nothing in this section prohibits a federally recognized  
10 Indian tribe located in this state from providing child welfare  
11 services to its members or other Indian children pursuant to existing  
12 tribal law, regulation, or custom, or from directly entering into  
13 agreements for the provision of such services with the department, if  
14 the department continues to otherwise provide such services, or with  
15 federal agencies.

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

18 Children whose cases are managed by a supervising agency as defined  
19 in RCW 74.13.020 remain under the care and placement authority of the  
20 state. The child welfare transformation design committee, in selecting  
21 demonstration sites for the provision of child welfare services under  
22 RCW 74.13.368(4), shall maintain the placement and care authority of  
23 the state over children receiving child welfare services at a level  
24 that does not adversely affect the state's ability to continue to  
25 obtain federal funding for child welfare related functions currently  
26 performed by the state and with consideration of options to further  
27 maximize federal funding opportunities and increase flexibility in the  
28 use of such funds, including use for preventive and in-home child  
29 welfare services.

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

32 ~~((Performance-based contracts with private nonprofit entities who~~  
33 ~~otherwise meet the definition of supervising agency shall receive~~  
34 ~~primary preference. This section does not apply to Indian tribes.))  
35 For the purposes of the provision of child welfare services by  
36 supervising agencies under this act, the department shall give primary~~

1 preference for performance-based contracts to private nonprofit  
2 entities, including federally recognized Indian tribes located in this  
3 state, who otherwise meet the definition of supervising agency under  
4 RCW 74.13.020. In any continuation or expansion of delivery of child  
5 welfare services purchased through the use of performance-based  
6 contracts under the provisions of RCW 74.13.372, private nonprofit  
7 entities, federally recognized Indian tribes located in this state, and  
8 state employees shall receive primary preference over private for  
9 profit entities.

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