

HOUSE BILL REPORT

SHB 2657

As Passed House:
February 9, 2012

Title: An act relating to adoption support expenditures.

Brief Description: Revising provisions affecting adoption support expenditures.

Sponsors: House Committee on Health & Human Services Appropriations & Oversight
(originally sponsored by Representatives Roberts, Kagi, Maxwell and Kenney).

Brief History:

Committee Activity:

Health & Human Services Appropriations & Oversight: 1/31/12, 2/2/12 [DPS].

Floor Activity:

Passed House: 2/9/12, 97-0.

Brief Summary of Substitute Bill

- Sets the maximum adoption support payment at 80 percent of what the foster care maintenance payment would have been had the child remained in a family foster home.
- Requires the Department of Social and Health Services (DSHS) to establish a central unit of adoption support negotiators to help ensure consistent negotiations of adoption support agreements.
- Requires the DSHS to request, in writing, that adoptive families with existing adoption support contracts renegotiate their contracts to a lower payment if it is fiscally feasible for the families to do so.
- Requires the DSHS Division of Behavioral Health and Recovery to convene a workgroup as part of the children's mental health redesign to better address the mental health needs of adoptive families.
- Requires the DSHS to report to the Legislature regarding the workgroup by December 15, 2012.

HOUSE COMMITTEE ON HEALTH & HUMAN SERVICES APPROPRIATIONS & OVERSIGHT

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Dickerson, Chair; Appleton, Vice Chair; Johnson, Ranking Minority Member; Schmick, Assistant Ranking Minority Member; Cody, Green, Harris, Kagi, Overstreet, Pettigrew and Walsh.

Staff: Melissa Palmer (786-7388).

Background:

Adoption Support Program.

The adoption support program provides assistance to families adopting foster children who face barriers to adoption because of their special conditions or needs by providing one or more of the following benefits:

- reimbursement for nonrecurring adoption finalization costs, which are limited to \$1,500 per child;
- cash payments (adoption subsidy);
- payment for counseling services as preauthorized; or
- medical services through the Medicaid program.

The adoption support program is governed by state and federal law and policy. Washington's adoption support statutes were adopted in 1971, almost 10 years before the federal law was passed. Washington law authorizes support for "hard to place" children without defining the term while the federal law uses and defines the term "special needs child." Because the federal adoption support law is part of Title IV-E of the Social Security Act, it requires the state to have a federally approved Title IV-E plan to enter into adoption assistance (support) agreements with the adoptive parents of special needs children.

Federal law requires a child to meet the following criteria to qualify as a "special needs child:"

1. The state has determined that the child cannot or should not be returned to the birth parents' home.
2. The state has found a specific factor or condition, or combination of factors and conditions, which make the child more difficult to place for adoption. Each state sets its own special needs definition, which may include the child's ethnic background; age; sibling group status; medical condition; or physical, mental, or emotional disabilities.
3. The state has made a reasonable, but unsuccessful, effort to place the child without providing adoption assistance, except when making the effort to locate a family is not in the best interest of the child.

Under the second criterion above, the state has the authority to determine what constitutes a specific factor or condition. State regulations provide that in order for a child to be considered a child with special needs, the child must have one of the following specific factors or conditions:

- the child is of a minority ethnic background;
- the child is 6 years of age or older at the time of the application for adoption support;
- the child is a member of a sibling group of three or more, or of a sibling group in which one or more siblings meets the definition of special needs;

- the child is diagnosed with a physical, mental, developmental, cognitive, or emotional disability; or
- the child is at risk for a diagnosis of a physical, mental, developmental, cognitive, or emotional disability due to prenatal exposure to toxins, a history of serious abuse or neglect, or genetic history.

Adoptive parents and the state enter into adoption support agreements for children who are determined to have special needs. The agreements are contracts that provide benefits the adoptive family will receive. Under federal law, these agreements must be individually negotiated and the amount of the subsidy cannot exceed the amount of the foster care maintenance payment the child would receive if the child were in foster care. An adoptive parent can request a review of the level of adoption support in writing.

Adoption Support Caseload and Payments.

The Caseload Forecast Council (CFC) develops a forecast of adoption support. The CFC forecasts and per capita expenditure data are used to develop the maintenance level of funding for the Adoption Support Program within the Department of Social and Health Services Children's Administration (DSHS/CA). The state receives federal Title IV-E funds for children who meet the federal IV-E criteria and have special needs. The state is required to match the federal funds, and the match is 50 percent in federal fiscal year 2012.

The 2010 Supplemental Omnibus Operating Budget included language setting the maximum amount for adoption support payments to 90 percent of what the foster care maintenance payment would have been for the child, had the child remained in family foster care. The 90 percent maximum applied to new adoption support agreements rather than adoption support agreements that were already in existence. This requirement was also included in the 2011-13 State Omnibus Operating Appropriations Act.

Mental Health Services.

The DSHS contracts primarily with Regional Support Networks (RSNs) to oversee the delivery of mental health services for adults and children who suffer from mental illness or severe emotional disturbance. Entities that are selected to operate as the RSN for designated geographic areas must meet regulatory and contractual standards. There are currently 13 RSNs in Washington. The RSNs are required to provide access to a wide array of services for Medicaid enrollees who meet diagnostic and functional eligibility criteria referred to as the RSN Access to Care Standards. The RSNs must include crisis, assessment, outpatient, residential, and inpatient services. Children who are adopted from foster care are eligible for Medicaid and as such are entitled to RSN assessments as well as crisis services. In order to access other levels of RSN care, children must meet RSN Access to Care Standards. The DSHS is currently undertaking a redesign effort regarding children's mental health services.

Summary of Substitute Bill:

The Secretary of the DSHS must not set the amount of an adoption support payment to more than 80 percent of what the foster care maintenance payment would have been for the child, had the child remained in foster care during the same period. The maximum amount applies prospectively to adoption assistance agreements established on or after July 1, 2013.

The DSHS must establish a central unit of adoption support negotiators to help ensure consistent negotiations of adoption support agreements that will balance the needs of the adoptive families with the state's need to remain fiscally responsible.

The DSHS must request, in writing, that adoptive families with existing adoption support agreements renegotiate their contracts to lower the adoption assistance payment if it is fiscally feasible for the families to do so.

The DSHS Division of Behavioral Health and Recovery must convene a workgroup as part of the children's mental health redesign process to develop recommendations to better address the mental health service needs of adoptive families and reduce the need for adoptive families to spend adoption support payments on mental health services. The workgroup should assess the mental health needs of children in adoption support households, existing services and provider capacity to meet the identified needs, and additional provider training, consultation, or capacity necessary to meet the unmet service needs. The workgroup must include representatives from certain entities and must report to the Legislature no later than December 15, 2012.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The proposed substitute bill will set the maximum adoption support agreement amount to 80 percent of the amount that would have been provided in foster care. Last year there was legislation proposed that would have eliminated adoption subsidies for children for whom a basic foster care rate is provided when the child was in foster care. That legislation did not move forward as it would have eliminated the opportunity for many children to achieve permanency through adoption. By reducing the subsidy to 80 percent, some of the cost can be contained. There are other policy changes happening in the child welfare system that will reduce entry into the foster care system. Additionally, the DSHS will request adoptive families to renegotiate a lower adoption subsidy amount. In some ways, this sounds like a long shot. However, there were families that have indicated that they did not need all of the adoption support subsidies they receive. Families expressed a need for mental health services and that greater access to mental health services would alleviate some of the need for adoption support subsidies.

The real issue is that if payments are cut, it is important to understand the impact on the ability and willingness of families to adopt children. It is unknown if going to an 80 percent maximum would have an impact on the willingness to adopt. It does not appear that the 90 percent maximum has deterred adoptions. It is important to get a sense of what the impact of 80 percent would be on adoptions. That said, the other elements of the bill could have a very positive impact on adoptive families. It is important to look at the impact of mental health needs on adoptive families.

(Opposed) None.

Persons Testifying: Representative Roberts, prime sponsor; Laurie Lippold, Children's Home Society; and Donna Christensen, Catholic Community Services.

Persons Signed In To Testify But Not Testifying: None.