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**SECOND SUBSTITUTE SENATE BILL 6494**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** Senate Ways & Means (originally sponsored by Senators Darneille, Frockt, Rivers, O'Ban, Conway, Carlyle, Rolfes, Keiser, McAuliffe, and Hasegawa)

AN ACT Relating to increasing access to adequate and appropriate mental health services for children and youth; amending RCW 74.09.520; adding a new section to chapter 74.09 RCW; creating new sections; and providing expiration dates.

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

NEW SECTION. **Sec.**  (1) The legislature understands that adverse childhood experiences, such as family mental health issues, substance abuse, serious economic hardship, and domestic violence, all increase the likelihood of developmental delays and later health and mental health problems. The legislature further understands that early intervention services for children and families at high risk for adverse childhood experience help build secure parent-child attachment and bonding, which allows young children to thrive and form strong relationships in the future. The legislature finds that early identification and intervention are critical for children exhibiting aggressive or depressive behaviors indicative of early mental health problems. The legislature intends to improve access to adequate, appropriate, and culturally responsive mental health services for children and youth. The legislature further intends to encourage the use of behavioral health therapies and other therapies that are empirically supported or evidence-based and discourage the overuse of psychotropic medications for children and youth.

(2) The legislature finds that nearly half of Washington's children are enrolled in medicaid and have a higher incidence of serious health problems compared to children who have commercial insurance. The legislature recognizes that disparities also exist in the diagnosis and initiation of treatment services for children of color, with studies demonstrating that children of color are diagnosed and begin receiving early interventions at a later age. The legislature finds that within the current system of care, families face barriers to receiving a full range of services for children experiencing behavioral health problems. The legislature intends to identify what network adequacy requirements, if strengthened, would increase access, continuity, and coordination of behavioral health services for children and families. The legislature further intends to encourage managed care plans and behavioral health organizations to contract with the same providers that serve children so families are not required to duplicate mental health screenings, and to recommend provider rates for mental health services to children and youth which will ensure an adequate network and access to quality based care.

(3) The legislature recognizes that early and accurate recognition of behavioral health issues coupled with appropriate and timely intervention enhances health outcomes while minimizing overall expenditures. The legislature intends to assure that annual depression screenings are done consistently with the highly vulnerable medicaid population and that children and families benefit from earlier access to services.

NEW SECTION. **Sec.**  (1) The children's mental health work group is established to identify barriers to accessing mental health services for children and families, and to advise the legislature on statewide mental health services for this population.

(2)(a) The work group shall include diverse, statewide representation from the public and nonprofit and for-profit entities. Its membership shall reflect regional, racial, and cultural diversity to adequately represent the needs of all children and families in the state.

(b) The work group shall consist of not more than twenty-six members, as follows:

(i) The president of the senate shall appoint one member and one alternative member from each of the two largest caucuses of the senate.

(ii) The speaker of the house of representatives shall appoint one member and one alternative member from each of the two largest caucuses in the house of representatives.

(iii) The governor shall appoint at least one representative from each of the following: The department of early learning, the department of social and health services, the health care authority, the department of health, and a representative of the governor.

(iv) The superintendent of public instruction shall appoint one representative from the office of the superintendent of public instruction.

(v) The governor shall request participation by a representative of tribal governments.

(vi) The governor shall appoint one representative from each of the following: Behavioral health organizations, community mental health agencies, medicaid managed care organizations, pediatricians or primary care providers, providers that specialize in early childhood mental health, child health advocacy groups, early learning and child care providers, the managed health care plan for foster children, the evidence-based practice institute, parents or caregivers who have been a recipient of early childhood mental health services, and foster parents.

(c) The work group shall seek input and participation from stakeholders interested in the improvement of statewide mental health services for children and families.

(d) The work group shall choose two cochairs, one from among its legislative membership and one representative of a state agency. The representative from the health care authority shall convene the initial meeting of the work group.

(3) The children's mental health work group shall review the barriers that exist to identifying and treating mental health issues in children with a particular focus on birth to five and report to the appropriate committees of the legislature. At a minimum the work group must:

(a) Review and recommend developmentally, culturally, and linguistically appropriate assessment tools and diagnostic approaches that managed care plans and behavioral health organizations should use as the mechanism to establish eligibility for services;

(b) Identify and review billing issues related to serving the parent or caregiver in a treatment dyad and the billing issues related to services that are appropriate for serving children, including children birth to five;

(c) Review workforce issues related to serving children and families, including issues specifically related to birth to five;

(d) Recommend strategies for increasing workforce diversity and the number of professionals qualified to provide children's mental health services;

(e) Review and make recommendations on the development and adoption of standards for training and endorsement of professionals to become qualified to provide mental health services to children birth to five and their parents or caregivers;

(f) Analyze, in consultation with the department of early learning, the health care authority, and the department of social and health services, existing and potential mental health supports for child care providers to reduce expulsions of children in child care and preschool; and

(g) Identify outreach strategies that will successfully disseminate information to parents, providers, schools, and other individuals who work with children and youth on the mental health services offered through the health care plans, including referrals to parenting programs, community providers, and behavioral health organizations.

(4) Legislative members of the work group are reimbursed for travel expenses in accordance with RCW 44.04.120. Nonlegislative members are not entitled to be reimbursed for travel expenses if they are elected officials or are participating on behalf of an employer, governmental entity, or other organization. Any reimbursement for other nonlegislative members is subject to chapter 43.03 RCW.

(5) The expenses of the work group must be paid jointly by the senate and the house of representatives. Work group expenditures are subject to approval by the senate facilities and operations committee and the house of representatives executive rules committee, or their successor committees.

(6) The work group shall report its findings and recommendations to the appropriate committees of the legislature by December 1, 2016.

(7) Staff support for the committee must be provided by the house of representatives office of program research, the senate committee services, and the office of financial management.

(8) This section expires December 1, 2017.

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

To better assure and understand issues related to network adequacy and access to services, the authority and the department shall report to the appropriate committees of the legislature by December 1, 2017, and annually thereafter, on the status of access to behavioral health services for children birth through age seventeen using data collected pursuant to RCW 70.320.050. At a minimum, the report must include the following components broken down by age, gender, and race and ethnicity:

(1) The percentage of discharges for patients ages six through seventeen who had a visit to the emergency room with a primary diagnosis of mental health or alcohol or other drug dependence during the measuring year and who had a follow-up visit with any provider with a corresponding primary diagnosis of mental health or alcohol or other drug dependence within thirty days of discharge;

(2) The percentage of health plan members with an identified mental health need who received mental health services during the reporting period; and

(3) The percentage of children served by behavioral health organizations, including the types of services provided.

**Sec.**  RCW 74.09.520 and 2015 1st sp.s. c 8 s 2 are each amended to read as follows:

(1) The term "medical assistance" may include the following care and services subject to rules adopted by the authority or department: (a) Inpatient hospital services; (b) outpatient hospital services; (c) other laboratory and X-ray services; (d) nursing facility services; (e) physicians' services, which shall include prescribed medication and instruction on birth control devices; (f) medical care, or any other type of remedial care as may be established by the secretary or director; (g) home health care services; (h) private duty nursing services; (i) dental services; (j) physical and occupational therapy and related services; (k) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (l) personal care services, as provided in this section; (m) hospice services; (n) other diagnostic, screening, preventive, and rehabilitative services; and (o) like services when furnished to a child by a school district in a manner consistent with the requirements of this chapter. For the purposes of this section, neither the authority nor the department may cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act unless there is a specific appropriation for these services.

(2) The department shall adopt, amend, or rescind such administrative rules as are necessary to ensure that Title XIX personal care services are provided to eligible persons in conformance with federal regulations.

(a) These administrative rules shall include financial eligibility indexed according to the requirements of the social security act providing for medicaid eligibility.

(b) The rules shall require clients be assessed as having a medical condition requiring assistance with personal care tasks. Plans of care for clients requiring health-related consultation for assessment and service planning may be reviewed by a nurse.

(c) The department shall determine by rule which clients have a health-related assessment or service planning need requiring registered nurse consultation or review. This definition may include clients that meet indicators or protocols for review, consultation, or visit.

(3) The department shall design and implement a means to assess the level of functional disability of persons eligible for personal care services under this section. The personal care services benefit shall be provided to the extent funding is available according to the assessed level of functional disability. Any reductions in services made necessary for funding reasons should be accomplished in a manner that assures that priority for maintaining services is given to persons with the greatest need as determined by the assessment of functional disability.

(4) Effective July 1, 1989, the authority shall offer hospice services in accordance with available funds.

(5) For Title XIX personal care services administered by aging and disability services administration of the department, the department shall contract with area agencies on aging:

(a) To provide case management services to individuals receiving Title XIX personal care services in their own home; and

(b) To reassess and reauthorize Title XIX personal care services or other home and community services as defined in RCW 74.39A.009 in home or in other settings for individuals consistent with the intent of this section:

(i) Who have been initially authorized by the department to receive Title XIX personal care services or other home and community services as defined in RCW 74.39A.009; and

(ii) Who, at the time of reassessment and reauthorization, are receiving such services in their own home.

(6) In the event that an area agency on aging is unwilling to enter into or satisfactorily fulfill a contract or an individual consumer's need for case management services will be met through an alternative delivery system, the department is authorized to:

(a) Obtain the services through competitive bid; and

(b) Provide the services directly until a qualified contractor can be found.

(7) Subject to the availability of amounts appropriated for this specific purpose, the authority may offer medicare part D prescription drug copayment coverage to full benefit dual eligible beneficiaries.

(8) Effective January 1, 2016, the authority shall require universal screening and provider payment for autism and developmental delays as recommended by the bright futures guidelines of the American academy of pediatrics, as they existed on August 27, 2015. This requirement is subject to the availability of funds.

(9) Effective January 1, 2017, the authority shall require universal screening and provider payment for depression for children ages eleven through twenty-one as recommended by the bright futures guidelines of the American academy of pediatrics, as they existed on January 1, 2016. This requirement is subject to the availability of funds.

NEW SECTION. **Sec.**  (1) The joint legislative audit and review committee shall conduct an inventory of the mental health service models available to students in schools, school districts, and educational service districts and report its findings by October 31, 2016. The report must be submitted to the appropriate committees of the house of representatives and the senate, in accordance with RCW 43.01.036.

(2) The committee must perform the inventory using data that is already collected by schools, school districts, and educational service districts. The committee must not collect or review student-level data and must not include student-level data in the report.

(3) The inventory and report must include information on the following:

(a) How many students are served by mental health services funded with nonbasic education appropriations in each school, school district, or educational service district;

(b) How many of these students are participating in medicaid programs;

(c) How the mental health services are funded, including federal, state, local, and private sources;

(d) Information on who provides the mental health services, including district employees and contractors; and

(e) Any other available information related to student access and outcomes.

(4) The duties of this section must be carried out within existing appropriations.

(5) This section expires July 1, 2017.

NEW SECTION. **Sec.**  If specific funding for the purposes of this act, referencing this act by bill or chapter number, is not provided by June 30, 2016, in the omnibus appropriations act, this act is null and void.

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