

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE HOUSE BILL 1774

Chapter 205, Laws of 2013

63rd Legislature
2013 Regular Session

CHILD WELFARE SYSTEM--PERFORMANCE--CONTRACTING

EFFECTIVE DATE: 07/28/13

Passed by the House April 22, 2013
Yeas 90 Nays 5

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate April 15, 2013
Yeas 48 Nays 0

BRAD OWEN

President of the Senate

Approved May 10, 2013, 11:11 a.m.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1774** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 10, 2013

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1774

AS AMENDED BY THE SENATE

Passed Legislature - 2013 Regular Session

State of Washington 63rd Legislature 2013 Regular Session

By House Early Learning & Human Services (originally sponsored by Representatives Freeman, Goodman, Haler, Roberts, Farrell, Kagi, Stanford, Stonier, Bergquist, Ryu, O'Ban, Morrell, Fey, Pollet, and Santos)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to measuring performance and performance-based
2 contracting of the child welfare system; amending RCW 74.13B.020 and
3 74.13.360; adding a new section to chapter 74.13 RCW; and creating new
4 sections.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature recognizes that the
7 goals of the child welfare system are to protect the safety,
8 permanence, and well-being of the children it serves. The legislature
9 further recognizes the importance of maintaining publicly accessible
10 data that tracks the performance of the child welfare system, leading
11 to transparency and public understanding of the system.

12 (2) The legislature believes it is important to measure safety,
13 permanence, and well-being such that the public and the legislature may
14 understand how the child welfare system is performing. This
15 information will also serve the legislature in determining priorities
16 for investment of public dollars as well as need for substantive
17 legislative changes to facilitate improvement.

18 (3) The reports to the legislature under section 2 of this act will
19 be used to provide feedback to the department of social and health

1 services. The agencies referenced in section 2 of this act will not
2 disclose individually identifiable private information except as
3 allowable under federal and state law.

4 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.13 RCW
5 to read as follows:

6 (1) A university-based child welfare research entity and the
7 department, in collaboration with other stakeholders, shall develop
8 measurements in the areas of safety, permanency, and well-being, using
9 existing and available data. Measurements must be calculated from data
10 used in the routine work of the state agencies' data and information
11 technology departments. Any new record linkage or data-matching
12 activities required in fulfillment of this section may be performed by
13 the research entity pursuant to agreements developed under subsection
14 (6) of this section.

15 (2) For the purposes of this section, "state agencies" means any
16 agency or subagency providing data used in the integrated client
17 database maintained by the research and data analysis division of the
18 department. Any exchange of data must be in accordance with applicable
19 federal and state law.

20 (3) All measurements must use a methodology accepted by the
21 scientific community. All measurements must address any
22 disproportionate racial and ethnic inequality. The initial
23 measurements must be developed by December 1, 2013.

24 (4) The measurements may not require the state agencies to revise
25 their data collection systems, and may not require the state agencies
26 to provide individually identifiable information.

27 (5) The state agencies shall provide the research entity with all
28 measurement data related to the measurements developed under this
29 section at least quarterly beginning July 1, 2014. The research entity
30 shall make any nonidentifiable data publicly available. The research
31 entity shall report on the data to the legislature and the governor
32 annually starting December 31, 2014.

33 (6) By January 1, 2014, the state agencies shall execute agreements
34 with the research entity to enable sharing of data pursuant to RCW
35 42.48.020 sufficient to comply with this section.

36 (7) The fact that the research entity has chosen to use a specific

1 measure, use a specific baseline, or compare any measure to a baseline
2 is not admissible as evidence of negligence by the department in a
3 civil action.

4 **Sec. 3.** RCW 74.13B.020 and 2012 c 205 s 3 are each amended to read
5 as follows:

6 (1) No later than (~~December 1, 2013~~) July 1, 2014, the department
7 shall enter into performance-based contracts for the provision of
8 family support and related services. The department may enter into
9 performance-based contracts for additional services, other than case
10 management.

11 (~~(2) (Beginning December 1, 2013, the department may not renew its
12 current contracts with individuals or entities for the provision of the
13 child welfare services included in performance based contracts under
14 this section for services in geographic areas served by network
15 administrators under such contracts, except as mutually agreed upon
16 between the department and the network administrator to allow for the
17 successful transition of services that meet the needs of children and
18 families.~~

19 ~~(3)~~) The department shall conduct a procurement process to enter
20 into performance-based contracts with one or more network
21 administrators for family support and related services. As part of the
22 procurement process, the department shall consult with department
23 caseworkers, the exclusive bargaining representative for employees of
24 the department, tribal representatives, parents who were formerly
25 involved in the child welfare system, youth currently or previously in
26 foster care, child welfare services researchers, and the Washington
27 state institute for public policy to assist in identifying the
28 categories of family support and related services that will be included
29 in the procurement. The categories of family support and related
30 services shall be defined no later than July 15, 2012. In identifying
31 services, the department must review current data and research related
32 to the effectiveness of family support and related services that
33 mitigate child safety concerns and promote permanency, including
34 reunification, and child well-being. Expenditures for family support
35 and related services purchased under this section must remain within
36 the levels appropriated in the operating budget.

1 (~~(4)~~) (3)(a) Network administrators shall, directly or through
2 subcontracts with service providers:

3 (i) Assist caseworkers in meeting their responsibility for
4 implementation of case plans and individual service and safety plans;
5 and

6 (ii) Provide the family support and related services within the
7 categories of contracted services that are included in a child or
8 family's case plan or individual service and safety plan within funds
9 available under contract.

10 (b) While the department caseworker retains responsibility for case
11 management, nothing in chapter 205, Laws of 2012 limits the ability of
12 the department to continue to contract for the provision of case
13 management services by child-placing agencies, behavioral
14 rehabilitation services agencies, or other entities that provided case
15 management under contract with the department prior to July 1, 2005.

16 (~~(5)~~) (4) In conducting the procurement, the department shall
17 actively consult with other state agencies with relevant expertise,
18 such as the health care authority, and with philanthropic entities with
19 expertise in performance-based contracting for child welfare services.
20 The director of the office of financial management must approve the
21 request for proposal prior to its issuance.

22 (~~(6)~~) (5) The procurement process must be developed and
23 implemented in a manner that complies with applicable provisions of
24 intergovernmental agreements between the state of Washington and tribal
25 governments and must provide an opportunity for tribal governments to
26 contract for service delivery through network administrators.

27 (~~(7)~~) (6) The procurement and resulting contracts must include,
28 but are not limited to, the following standards and requirements:

29 (a) The use of family engagement approaches to successfully
30 motivate families to engage in services and training of the network's
31 contracted providers to apply such approaches;

32 (b) The use of parents and youth who are successful veterans of the
33 child welfare system to act as mentors through activities that include,
34 but are not limited to, helping families navigate the system,
35 facilitating parent engagement, and minimizing distrust of the child
36 welfare system;

37 (c) The establishment of qualifications for service providers

1 participating in provider networks, such as appropriate licensure or
2 certification, education, and accreditation by professional accrediting
3 entities;

4 (d) Adequate provider capacity to meet the anticipated service
5 needs in the network administrator's contracted service area. The
6 network administrator must be able to demonstrate that its provider
7 network is culturally competent and has adequate capacity to address
8 disproportionality, including utilization of tribal and other ethnic
9 providers capable of serving children and families of color or who need
10 language-appropriate services;

11 (e) Fiscal solvency of network administrators and providers
12 participating in the network;

13 (f) The use of evidence-based, research-based, and promising
14 practices, where appropriate, including fidelity and quality assurance
15 provisions;

16 (g) Network administrator quality assurance activities, including
17 monitoring of the performance of providers in their provider network,
18 with respect to meeting measurable service outcomes;

19 (h) Network administrator data reporting, including data on
20 contracted provider performance and service outcomes; and

21 (i) Network administrator compliance with applicable provisions of
22 intergovernmental agreements between the state of Washington and tribal
23 governments and the federal and Washington state Indian child welfare
24 act.

25 ~~((+8))~~ (7) As part of the procurement process under this section,
26 the department shall issue the request for proposals or request for
27 information no later than December 31, ~~((2012. The department shall~~
28 ~~notify the apparently successful bidders no later than June 30, 2013))~~
29 2013, shall begin implementation of performance-based contracting no
30 later than July 1, 2014, and shall fully implement performance-based
31 contracting no later than July 1, 2015.

32 ~~((+9))~~ (8) Performance-based payment methodologies must be used in
33 network administrator contracting. Performance measures should relate
34 to successful engagement by a child or parent in services included in
35 their case plan, and resulting improvement in identified problem
36 behaviors and interactions. For the initial three-year period of
37 implementation of performance-based contracting, the department may
38 transfer financial risk for the provision of services to network

1 administrators only to the limited extent necessary to implement a
2 performance-based payment methodology, such as phased payment for
3 services. However, the department may develop a shared savings
4 methodology through which the network administrator will receive a
5 defined share of any savings that result from improved performance. If
6 the department receives a Title IV-E waiver, the shared savings
7 methodology must be consistent with the terms of the waiver. If a
8 shared savings methodology is adopted, the network administrator shall
9 reinvest the savings in enhanced services to better meet the needs of
10 the families and children they serve.

11 ~~((+10))~~ (9) The department must actively monitor network
12 administrator compliance with the terms of contracts executed under
13 this section.

14 ~~((+11))~~ (10) The use of performance-based contracts under this
15 section must be done in a manner that does not adversely affect the
16 state's ability to continue to obtain federal funding for child
17 welfare-related functions currently performed by the state and with
18 consideration of options to further maximize federal funding
19 opportunities and increase flexibility in the use of such funds,
20 including use for preventive and in-home child welfare services.

21 **Sec. 4.** RCW 74.13.360 and 2012 c 205 s 8 are each amended to read
22 as follows:

23 (1) No later than December 30, ~~((2015))~~ 2016:

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

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

34 (2) No later than December 30, ~~((2015))~~ 2016, for families and
35 children provided child welfare services by supervising agencies in the
36 demonstration sites selected under RCW 74.13.368(4)(a), the department
37 is responsible for only the following:

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

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

6 (c) Providing child protection functions and services, including
7 intake and investigation of allegations of child abuse or neglect,
8 emergency shelter care functions under RCW 13.34.050, and referrals to
9 appropriate providers; and

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

11 (3) No later than December 30, (~~2015~~) 2016, for families and
12 children provided child welfare services by supervising agencies in the
13 demonstration sites selected under RCW 74.13.368(4)(a), the department
14 may provide child welfare services only:

15 (a) For the limited purpose of establishing a control or comparison
16 group as deemed necessary by the child welfare transformation design
17 committee, with input from the Washington state institute for public
18 policy, to implement the demonstration sites selected and defined
19 pursuant to RCW 74.13.368(4)(a) in which the performance in achieving
20 measurable outcomes will be compared and evaluated pursuant to RCW
21 74.13.370; or

22 (b) In an emergency or as a provider of last resort. The
23 department shall adopt rules describing the circumstances under which
24 the department may provide those services. For purposes of this
25 section, "provider of last resort" means the department is unable to
26 contract with a private agency to provide child welfare services in a
27 particular geographic area or, after entering into a contract with a
28 private agency, either the contractor or the department terminates the
29 contract.

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

35 (5) A federally recognized tribe located in this state may enter
36 into a performance-based contract with the department to provide child
37 welfare services to Indian children whether or not they reside on a
38 reservation. Nothing in this section prohibits a federally recognized

1 Indian tribe located in this state from providing child welfare
2 services to its members or other Indian children pursuant to existing
3 tribal law, regulation, or custom, or from directly entering into
4 agreements for the provision of such services with the department, if
5 the department continues to otherwise provide such services, or with
6 federal agencies.

7 NEW SECTION. **Sec. 5.** RCW 74.13.368 (Performance-based contracts--
8 Child welfare transformation design committee) and 2012 c 205 s 10,
9 2010 c 291 s 2, & 2009 c 520 s 8 are each suspended as of the effective
10 date of this section until December 1, 2015.

Passed by the House April 22, 2013.

Passed by the Senate April 15, 2013.

Approved by the Governor May 10, 2013.

Filed in Office of Secretary of State May 10, 2013.