

# SENATE BILL REPORT

## E2SHB 1661

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As Reported by Senate Committee On:  
Human Services, Mental Health & Housing, March 28, 2017

**Title:** An act relating to creating the department of children, youth, and families.

**Brief Description:** Creating the department of children, youth, and families.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Kagi, Sullivan, Dent, Senn, Muri, Kilduff, Klippert, Frame, Goodman, Ortiz-Self, Wilcox, Lovick, Hargrove, Clibborn, Lytton, Appleton, Fitzgibbon, Orwall, Kloba, Sells, Fey, Macri, Bergquist, Pollet, Hudgins, Robinson, Stanford and Slatter; by request of Office of the Governor).

**Brief History:** Passed House: 3/15/17, 77-19.

**Committee Activity:** Human Services, Mental Health & Housing: 3/27/17, 3/28/17 [DPA-WM, DNP].

### Brief Summary of Amended Bill

- Creates the Department of Children, Youth, and Families (DCYF) and moves responsibility for (1) early learning and child welfare programs from the Department of Early Learning and the Department of Social and Health Services (DSHS), respectively, to the DCYF on July 1, 2018; and juvenile justice programs from the DSHS to the DCYF on July 1, 2019.
- Creates an Office of Innovation, Alignment, and Accountability within the Office of the Governor with the duty to develop a plan for the establishment of the DCYF.
- Creates an Oversight Board for Children, Youth, and Families established by the Office of the Family and Children's Ombuds for the purpose of monitoring and ensuring that the DCYF achieves its stated outcomes.

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### SENATE COMMITTEE ON HUMAN SERVICES, MENTAL HEALTH & HOUSING

**Majority Report:** Do pass as amended and be referred to Committee on Ways & Means.

Signed by Senators O'Ban, Chair; Miloscia, Vice Chair; Darneille, Ranking Minority Member; Carlyle, Hunt and Walsh.

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*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.*

**Minority Report:** Do not pass.  
Signed by Senator Padden.

**Staff:** Alison Mendiola (786-7444)

**Background:** Department of Social and Health Services (DSHS). The DSHS was established in 1970 and was created by merging the former Department of Health, Department of Public Assistance, Department of Institutions, Veterans' Rehabilitation Council, and Division of Vocational Rehabilitation of the Coordinating Council on Occupational Education. The DSHS was intended to "integrate and coordinate all those activities involving the provision of care for individuals who, as a result of their economic, social, or health condition, require financial assistance, institutional care, rehabilitation, or other social and health services."

The DSHS consists of seven program area administrations including the: Aging and Long-Term Support Administration; Behavioral Health Administration; Children's Administration (CA); Developmental Disabilities Administration; Economic Services Administration; Financial Services Administration; and Rehabilitation Administration.

The CA responds to allegations of abuse and neglect, offers child welfare services to families, and licenses foster homes, among other things. The CA screens allegations of abuse and neglect and determines whether a response is necessary, and if so what the appropriate response should be. If a child abuse or neglect allegation meets the criteria for a response, the case will be assigned to either Child Protective Services (CPS), the Family Assessment Response program, or to the Division of Licensing Resources. Serious allegations of child abuse or neglect will receive a CPS investigation within 24 hours. Allegations with low to moderately low risk of child abuse or neglect will receive a response from the Family Assessment Response program within 72 hours. The CA offers voluntary services to parents through the Family Voluntary Services program. The CA may also seek court intervention to approve out-of-home placement for children, request that parents engage in services to correct parental deficiencies, and to terminate parental rights in cases where parents do not correct their deficiencies.

The Rehabilitation Administration has responsibility for the Division of Vocational Rehabilitation, Juvenile Rehabilitation (JR), the Office of Juvenile Justice (OJJ), and the Special Commitment Center. The JR serves youth committed to custody by county courts for periods of incarceration lasting longer than 30 days in three facilities: Echo Glen, Green Hill, and Naselle Youth Camp. The OJJ is responsible for monitoring the state's compliance with the federal Juvenile Justice and Delinquency Prevention Act and providing support for the Washington State Partnership Council on Juvenile Justice.

Department of Early Learning (DEL). The DEL was created by the Legislature in 2006 and has the duty to implement early learning programs including licensing centers and family home child care programs, the Early Achievers quality rating and improvement system, and the Early Childhood Education and Assistance Program. The DEL also partners with Thrive Washington to provide home visiting services, provides community grants and public awareness to prevent abuse and neglect, administers a Medicaid Treatment Child Care program, oversees the Early Support for Infants and Toddlers program, and sets policy for the

Working Connection Child Care and Seasonal Child Care and Homeless Child Care subsidy programs.

Blue Ribbon Commission on the Delivery of Services to Children and Families (BRC). The BRC was established by executive order in early 2016 and directed to recommend an organizational structure for a new department focused solely on children and families. The BRC met throughout the interim of 2016 and produced a final report recommending that the CA and juvenile justice functions of the DSHS should be integrated with the DEL to create a new state agency, among many other recommendations.

Child Care Licensing. The DEL adopts licensing standards for child care and early education programs. The licensing standards must provide minimum requirements for health and safety, address quality, consider the different needs of family care providers and child care centers, and promote the continued safety of child care settings.

If a party does not meet the minimum licensing requirements or violates licensing rules, the DEL may take an adverse licensing action against the provider by assessing a fine, deny a license application, or suspend, modify, or revoke an existing license. The DEL must give written notice of the agency's action and reasons for the action to the applicant or licensee. In general, the fine is due or the license revocation, suspension, or modification is effective 28 days after the licensee receives the notice. The DEL may make the effective date of license suspensions or revocations earlier than 28 days from the date of the notice in certain circumstances.

In lieu of taking an adverse licensing action against a child care provider, the DEL may develop a Facility Licensing Compliance Agreement (FLCA) that is an agreement between the DEL and the child care provider that the provider will take certain steps to correct violations of child care regulations. If a provider disagrees with the provisions of a FLCA, the provider may request review by a DEL supervisor. If a provider still disagrees with the FLCA after supervisory review, a provider may ask that the DEL Licensing Regional Administrator review the FLCA. The final review of a FLCA is with the DEL Statewide Licensing Administrator.

A license applicant or licensee who disagrees with the DEL's adverse licensing action has the right to an adjudicative proceeding governed by the provisions of the Administrative Procedure Act (APA). The aggrieved party must serve the DEL and the Office of Administrative Hearings (OAH) with written notice contesting the agency's action within 28 days of the party receiving the adverse notice.

Legislative Children's Oversight Committee. The Legislative Children's Oversight Committee was created in 1996 for the purpose of monitoring and ensuring compliance with administrative acts, relevant statutes, rules, and policies pertaining to family and children services and the placement, supervision, and treatment of children in the state's care or in state-licensed facilities or residences.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Amended Bill:** Department of Children, Youth, and Families (DCYF). The DCYF, is created on July 1, 2018. The intent of creating this new agency is to improve the delivery of services and the outcomes for children and families through delivery of these services by housing early learning, child welfare, and juvenile justice services in the same agency. The DCYF must establish outcome measure goals and report to the Legislature on these outcome measures and progress toward these goals no less than annually. The outcome measures are defined to include (1) improving child development and school readiness; (2) preventing child abuse and neglect; (3) improving child and youth safety, permanency, and well-being; (4) improving reconciliation of children and youth with their families; (5) improving adolescent outcomes; (6) reducing future demand for mental health and substance use disorder treatment; (7) reducing criminal justice involvement and recidivism; and (8) reducing racial and ethnic disproportionality and disparities.

The DCYF must lead ongoing work to minimize or eliminate systemic barriers to effective, integrated services across state agencies serving children, youth, and families and help the state create a data-focused environment in which there are aligned outcomes and shared accountability for those outcomes. Performance data for the DCYF must be available to the public. No funds may be expended by the DCYF on renewed or new contracted programs unless using performance-based contracts. DCYF will execute data sharing agreements when contracted services are managed through a network administrator, in order to track performance measures. When possible, contractor performance data will be made available to the public, consistent with confidentiality laws and individuals' right to privacy.

On July 1, 2018, the DEL is eliminated, and the functions performed by that agency are moved to the DCYF.

On July 1, 2018, the child welfare functions of the DSHS CA move from the DSHS to the DCYF.

On July 1, 2019, the juvenile justice functions of the DSHS Juvenile Rehabilitation Administration (JRA) move from the DSHS to the DCYF.

Office of Innovation, Alignment, and Accountability (OIAA). An OIAA is created within the Office of the Governor (GOV) with the primary duty of developing and presenting a plan for the establishment of the DCYF. The secretary for the OIAA is appointed by the Governor within 30 days of the Governor signing the bill and will transition into the role of secretary of the DCYF when the OIAA transitions into the DCYF on July 1, 2018.

The plan developed by OIAA must be delivered to the Governor and Legislature by November 1, 2017, and must include:

- coordinating and convening the DEL, the DSHS, policy work groups and research institutions in the development of an integrated management portfolio management and administrative structure for the DCYF, which would include a definition of outcomes to measure performance for the DCYF;
- developing a stakeholder advisory system for the DCYF;
- coordinating with other state agencies;

- developing an information technology design and investment plan required to effectively integrate the DEL, the CA of DSHS, and the JRA of DSHS, and to meet other goals for consideration in the 2018 Supplemental Budget;
- developing a consultation policy and protocol with the 29 federally recognized tribes in the State of Washington and signatories to the Centennial Accord; and
- reviewing existing statutes affecting the DEL and the DSHS and identifying conflicts or barriers that these statutes present.

The OIAA must also develop a report on how to incorporate the staff determining eligibility for the Working Connections Child Care program by July 1, 2019 and other elements of that program into the DCYF.

The OIAA transitions from the GOV to the DCYF on July 1, 2018. After that date, its functions will include:

- recommending implementation of advancements based on research;
- alignment and measurement of outcomes;
- quality assurance and evaluation of programs and services;
- leading partnerships with the community, research and teaching institutions, philanthropic organizations, and nonprofit organizations;
- leading collaboration with courts;
- producing an annual work plan that includes priorities for ongoing policy, practice, and system reform, tracking and reporting on the performance of DCYF reforms;
- appointing members of an external stakeholder committee; and
- providing a report to the Governor and Legislature by November 1, 2019, that includes:
  - recommendations regarding whether the juvenile rehabilitation division of the DSHS should be integrated into the DCYF, and if so, what the appropriate timing and process is for integration of the juvenile rehabilitation division into the DCYF;
  - an analysis of the current review process for foster parent complaints using the Office of the Family and Children's Ombuds (OFCO), and recommendations, if deemed necessary, for expanding or modifying the current foster parent complaint process; and
  - recommendations regarding whether the Office of Homeless Youth within the Department of Commerce should be integrated into the DCYF.

Oversight Board for Children, Youth, and Families (Oversight Board). The OFCO must establish the Oversight Board for the purpose of monitoring and ensuring that the DCYF achieves its stated outcomes. The Oversight Board is required to begin its work and call its first meeting on or after July 1, 2018. Between July 1, 2018, through June 30, 2019, the OIAA is to provide quarterly reports to the Oversight Board regarding the implementation of the DCYF. From July 1, 2018, through June 30, 2019, the Oversight Board shall assume the duties of the Legislative Children's Oversight Committee. This committee is repealed effective July 1, 2019.

The Oversight Board includes four legislators, three subject matter experts, one subject matter expert in reducing disparities in child outcomes by family income, and race/ethnicity, three parent stakeholder representatives, three parent representatives—from each issue area

of early learning, child welfare, and juvenile justice, one child welfare caseworker representative, one early childhood program implementation practitioner, one law enforcement representative, two tribal representatives, and one judicial representative. The non-legislative members are nominated by the Governor and confirmed by the appointed legislative members.

The Oversight Board has the following powers: (1) receiving OFCO reports; (2) obtaining records from the OFCO; (3) selecting its officers and adopting rules; (4) requesting investigations by the OFCO; (5) requesting and receiving information from the DCYF; (6) determining whether the DCYF meets its performance measures; (7) conducting an annual review of a sampling of provider contracts to ensure that they are performance-based; (8) conducting periodic surveys of providers, customers, parent groups, and external services; and (9) issuing an annual report.

The Oversight Board must maintain a staff not to exceed one full time employee and a board-selected executive director. The Legislative Children's Oversight Committee is eliminated on July 1, 2019, and references to that committee are replaced with references to the Oversight Board.

The Oversight Board is granted the authority to review decisions made by the internal review process for reviewing child care facility licensing compliance agreements developed by the DCYF that do not involve violations of health and safety standards and overturn, change, or uphold those decisions.

Child Care Licensing. The DCYF is limited in its release of licensing history to parents and caregivers on its single source of information to license suspension, surrender, revocation, denial, stayed suspension, or reinstatement.

The DCYF must establish an internal review process for reviewing child care facility licensing compliance agreements that do not involve violations of health and safety standards. The review process must be conducted by three DCYF employees, and three child care providers. The internal review process may overturn, change, or uphold a department licensing decision by majority vote. In the event that the individuals conducting the internal review process are equally divided, the secretary shall make the decision of the internal review process. A licensee must request review by the internal review process within ten days of the development of a child care facility licensing compliance agreement and the internal review process must be completed within 30 days of receiving the request from the licensee to initiate the internal review process.

The DCYF is prohibited from developing child care facility licensing compliance agreements with a child care provider for first-time violations of rules that do not relate to health and safety standards and that can be corrected on the same day that the violation is identified.

**EFFECT OF HUMAN SERVICES, MENTAL HEALTH & HOUSING COMMITTEE AMENDMENT(S):** Outcome measures are to include improving child and youth safety, permanency, and well-being as measured by, among other measures, developing strategies to demonstrate to foster families that their service and involvement is highly valued by the

Department, as demonstrated by the development of strategies to consult with foster families regarding future placement of a foster child currently placed with a foster family.

The Office of Innovation, Alignment, and Accountability is to ensure that data between CPS and child care providers is confidential and not shared between the two systems, including the names of individuals involved in either or both systems.

Two references to the Centennial Accord are struck and it is clarified that DCYF is to work with affected federally recognized Indian tribes.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** Yes.

**Effective Date:** This bill takes effect on July 1, 2018; except for section 103, relating to the Office of Innovation, Alignment, and Accountability within the Office of the Governor, which takes effect 30 days after the Governor signs the act; and except for sections 601 through 631 and sections 701 through 728, relating to the transfer of juvenile justice programs, which take effect on July 1, 2019.

**Staff Summary of Public Testimony on Proposed Striking Amendment:** *The committee recommended a different version of the bill than what was heard.* PRO: This bill represents a remarkable bi-partisan effort to restructure service delivery in order to focus on intervention across state government, working to help children and families. Everyone supports a culture change which is not possible if CA is left within DSHS which is too large and currently focused on reforming mental health. Regarding the cost of restructuring, we're spending \$600 million in CA in child welfare and we're not very happy with the results we're getting. The bill may be expensive but so is the cost of children bouncing from placement to placement. The Accountability Board will provide strong oversight. If nothing changes, nothing changes. With the developments in brain science, we know how important it is to work on prevention and work with young children. We need to create a better system of delivery, and this bill is the vehicle. This bill presents an incredible opportunity to maximize benefits in early learning. The concept of creating a separation department is not a new one—this has been looked at for over a decade. The purpose of the Blue Ribbon Commission was not to determine if a new agency should be created but determine what the agency should look like. There will be many opportunities for stakeholder input.

CON: Concerned that the Secretary of the Department is appointed by the Governor not the people. Daycare and childcare will be tied to CA which gives the Department too much power, we need a separation of power. The Department will have access to all the records of child care and CPS. Kids in childcare is not the same as working with at-risk kids and kids in the juvenile justice system. There is a concern with DEL interfering with childcare located at churches. Many daycares are closing, we need to support daycares, including religious based child care, not impose more onerous regulations.

OTHER: The new department alone won't solve problems. Last year 20 percent of cases carrying social workers left due to unreasonable workloads and unreasonable pay. Some of the references to the Centennial Accord need to be removed, as not all federally recognized Indian tribes in Washington are signatories. Also, the bill should reflect working with all federally recognized Indian tribes, not just those located in Washington.

**Persons Testifying:** PRO: Patty Flanagan-Liderman, foster parent; Sharon Osborne, Children's Home Society of WA; Darryl Cook, Wellspring Family Services; Michael Moran, Confederated Tribes of the Colville Reservation; Laurie Lippold, Partners for Our Children; Jon Gould, Children's Alliance; Brian Carroll, Washington Association for Children and Families.

CON: Karen Larsen, citizen; Tim Benn, citizen; William McGunagle, citizen; April Ferguson, former daycare owner Caring Hands Learning; Cris Shardelman, citizen; Sharon Hanek, citizen.

OTHER: Dennis Eagle, WA Federation of State Employees; Dawn Vyvyan, Yakama Nation; Patrick Dowd, Office of the Family and Children.

**Persons Signed In To Testify But Not Testifying:** No one.