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SENATE BILL 5299

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State of Washington

65th Legislature

2017 Regular Session

By Senators Keiser, Darneille, Chase, Hasegawa, and Conway

Read first time 01/19/17. Referred to Committee on Commerce, Labor & Sports.

1 AN ACT Relating to promoting healthy outcomes for pregnant women  
2 and infants; amending RCW 74.09.480; adding a new section to chapter  
3 74.09 RCW; adding a new section to chapter 43.10 RCW; adding a new  
4 section to chapter 43.70 RCW; creating a new section; and providing  
5 an expiration date.

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

7 NEW SECTION. **Sec. 1.** (1) The legislature finds that the state  
8 has an interest in assuring that children are given the opportunity  
9 to have a healthy start in life. Because approximately half of all  
10 births in Washington state are funded by state resources, and over  
11 eight hundred thousand children in Washington state are enrolled in  
12 the apple health program, the state is in a unique position to make a  
13 difference in the health of children in Washington.

14 (2) The legislature also finds that there may be gaps in programs  
15 that could greatly benefit children. Where programs may benefit  
16 children in their early stages of development, the state must assure  
17 they receive these benefits. Where children are not receiving  
18 services because the public is unaware of the services, opportunities  
19 for outreach must be explored.

20 (3) The legislature additionally finds that several hospitals  
21 have begun adopting the best practices of the baby-friendly hospital

1 initiative. The state can use its resources to encourage hospitals to  
2 adopt some of the most critical components by incorporating the  
3 standards into medicaid contracts.

4 (4) The legislature further finds that providing children with a  
5 healthy start also requires promoting healthy pregnancies. In one  
6 national survey, pregnant workers said they needed more frequent  
7 breaks while pregnant. Prenatal care is also critical for positive  
8 birth outcomes, and pregnant women have cited the need for  
9 flexibility in their work schedule for the purposes of attending  
10 doctor visits. Reasonable accommodations for pregnant women in the  
11 workplace can go a long way to promoting healthy pregnancies without  
12 producing an undue hardship on employers.

13 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09  
14 RCW to read as follows:

15 (1) Effective January 1, 2018, the authority shall require that  
16 all health care facilities that provide newborn delivery services to  
17 medical assistance clients establish policies and procedures to  
18 provide:

19 (a) Skin-to-skin placement of the newborn on the mother's chest  
20 immediately following birth to promote the initiation of  
21 breastfeeding, except as otherwise indicated by authority guidelines;  
22 and

23 (b) Room-in practices in which a newborn and a mother share the  
24 same room for the duration of their postdelivery stay at the  
25 facility, except as otherwise indicated by authority guidelines.

26 (2) The authority shall provide guidelines for hospitals to use  
27 when establishing policies and procedures for services under  
28 subsection (1) of this section, including circumstances in which  
29 providing the services is not appropriate.

30 (3) The authority shall require managed care organizations to  
31 report on the frequency with which each facility they contract with  
32 is able to adhere to the policies and procedures and the most common  
33 reasons for nonadherence. The authority shall include a summary of  
34 this information in the biennial report required under RCW  
35 74.09.480(3).

36 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.10  
37 RCW to read as follows:

1 (1) The definitions in this subsection apply throughout this  
2 section unless the context clearly requires otherwise.

3 (a) "Employer" has the same meaning as and shall be interpreted  
4 consistent with how that term is defined in RCW 49.60.040.

5 (b) "Pregnancy" includes the employee's pregnancy and pregnancy-  
6 related health conditions, including the need to express breast milk.

7 (c) "Reasonable accommodation" means measures that enable the  
8 proper performance of the particular job held or desired and enable  
9 the enjoyment of equal benefits, privileges, or terms and conditions  
10 of employment. "Reasonable accommodation" includes, but is not  
11 limited to:

12 (i) Providing more frequent, longer, or flexible restroom breaks;

13 (ii) Modifying a no food or drink policy;

14 (iii) Acquiring or modifying equipment or an employee's work  
15 station;

16 (iv) Providing seating or allowing the employee to sit more  
17 frequently if her job requires her to stand;

18 (v) Providing for a temporary transfer to a less strenuous or  
19 less hazardous position;

20 (vi) Providing assistance with manual labor; and

21 (vii) Modifying work schedules.

22 (2) It is an unfair practice for any employer to:

23 (a) Fail or refuse to make reasonable accommodation for an  
24 employee for pregnancy, unless the employer can demonstrate that  
25 doing so would impose an undue hardship on the employer's program,  
26 enterprise, or business;

27 (b) Take adverse action against an employee who requests or uses  
28 an accommodation under this section that affects the terms,  
29 conditions, or privileges of employment;

30 (c) Deny employment opportunities to an otherwise qualified  
31 employee if such denial is based on the employer's need to make  
32 reasonable accommodation required by this section;

33 (d) Require an employee to take leave if another reasonable  
34 accommodation can be provided for the employee's pregnancy; or

35 (e) Require an employee requesting reasonable accommodation for  
36 pregnancy to accept an accommodation that the employee chooses not to  
37 accept.

38 (3) An employer may request that the employee provide written  
39 certification from her treating health care professional regarding  
40 the need for reasonable accommodation.

1 (4)(a) This section does not require an employer to create  
2 additional employment that the employer would not otherwise have  
3 created, unless the employer does so or would do so for other classes  
4 of employees who need accommodation.

5 (b) This section does not require an employer to discharge any  
6 employee, transfer any employee with more seniority, or promote any  
7 employee who is not qualified to perform the job, unless the employer  
8 does so or would do so to accommodate other classes of employees who  
9 need accommodation.

10 (5) The attorney general shall investigate complaints and enforce  
11 this section. In addition to the complaint process with the attorney  
12 general, any person believed to be injured by a violation of this  
13 section has a civil cause of action in court to enjoin further  
14 violations, or to recover the actual damages sustained by the person,  
15 or both, together with the cost of suit and reasonable attorneys'  
16 fees or any other appropriate remedy authorized by state or federal  
17 law.

18 (6) This section does not preempt, limit, diminish, or otherwise  
19 affect any other provision of law relating to sex discrimination or  
20 pregnancy, or in any way diminish or limit legal protections or  
21 coverage for pregnancy.

22 **Sec. 4.** RCW 74.09.480 and 2011 1st sp.s. c 15 s 22 are each  
23 amended to read as follows:

24 (1) The authority, in collaboration with the department of  
25 health, department of social and health services, health carriers,  
26 local public health jurisdictions, children's health care providers  
27 including pediatricians, family practitioners, and pediatric  
28 subspecialists, community and migrant health centers, parents, and  
29 other purchasers, shall establish a concise set of explicit  
30 performance measures that can indicate whether children enrolled in  
31 the program are receiving health care through an established and  
32 effective medical home, and whether the overall health of enrolled  
33 children is improving. Such indicators may include, but are not  
34 limited to:

35 (a) Childhood immunization rates;

36 (b) Well child care utilization rates, including the use of  
37 behavioral and oral health screening, and validated, structured  
38 developmental screens using tools, that are consistent with  
39 nationally accepted pediatric guidelines and recommended

1 administration schedule, once funding is specifically appropriated  
2 for this purpose;

3 (c) Care management for children with chronic illnesses;

4 (d) Emergency room utilization;

5 (e) Visual acuity and eye health;

6 (f) Preventive oral health service utilization; and

7 (g) Children's mental health status. In defining these measures  
8 the authority shall be guided by the measures provided in RCW  
9 71.36.025.

10 Performance measures and targets for each performance measure  
11 must be established and monitored each biennium, with a goal of  
12 achieving measurable, improved health outcomes for the children of  
13 Washington state each biennium.

14 (2) Beginning in calendar year 2009, targeted provider rate  
15 increases shall be linked to quality improvement measures established  
16 under this section. The authority, in conjunction with those groups  
17 identified in subsection (1) of this section, shall develop  
18 parameters for determining criteria for increased payment,  
19 alternative payment methodologies, or other incentives for those  
20 practices and health plans that incorporate evidence-based practice  
21 and improve and achieve sustained improvement with respect to the  
22 measures.

23 (3) The department shall provide a report to the governor and the  
24 legislature related to provider performance on these measures, as  
25 well as the information collected under section 2 of this act,  
26 beginning in September 2010 for 2007 through 2009 and the authority  
27 shall provide the report biennially thereafter.

28 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.70  
29 RCW to read as follows:

30 (1) The healthy pregnancy advisory committee is established to  
31 develop a strategy for improving maternal and infant health outcomes.  
32 The advisory committee shall conduct its activities in consultation  
33 with the maternal mortality review panel established in RCW 70.54.450  
34 and an initiative related to improving maternal and infant outcomes  
35 that is established by the largest association representing hospitals  
36 in Washington.

37 (2) The secretary shall appoint up to twenty members to the  
38 advisory committee including experts in maternal and child health,  
39 pediatric primary care providers, public health experts, hospitals

1 that provide birthing services, health care providers involved in the  
2 care of pregnant women and infants, and representatives of low-income  
3 women, women of color, and immigrant communities. In addition, the  
4 secretary shall designate a representative from the department of  
5 health and invite participation from the health care authority, the  
6 department of social and health services, and the department of early  
7 learning. The secretary's designee shall serve as the chair of the  
8 advisory committee and shall convene the work group.

9 (3) The advisory committee shall develop a strategy to promote  
10 maternal and child health outcomes. The strategy shall consider best  
11 practices that agencies may integrate into their programs to improve  
12 birth outcomes, reduce maternal mortality and morbidity, and reduce  
13 infant mortality. The strategy shall include elements to promote  
14 breastfeeding, incentivize the adoption of the baby-friendly  
15 designation by hospitals, and reduce barriers to accessing prenatal  
16 care. The advisory committee shall consider where there may be gaps  
17 in the availability of services that may benefit pregnant women and  
18 infants, such as coverage for lactation consulting, the availability  
19 of smoking cessation programs for persons who are codomiciled with  
20 the pregnant woman or infant, access to fresh fruits and vegetables,  
21 and improved access to dental care for pregnant women.

22 (4) The advisory committee shall submit the strategy to the  
23 legislature and the governor's council for the healthiest next  
24 generation by October 15, 2018.

25 (5) This section expires July 1, 2019.

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