

**ESHB 1796** - S COMM AMD

By Committee on Commerce, Labor & Sports

1 Strike everything after the enacting clause and insert the  
2 following:

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

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

17 (3) The legislature additionally finds that several hospitals  
18 have begun adopting the best practices of the baby-friendly hospital  
19 initiative. The state can use its resources to encourage hospitals  
20 to adopt some of the most critical components by incorporating the  
21 standards into medicaid contracts.

22 (4) The legislature further finds that providing children with a  
23 healthy start also requires promoting healthy pregnancies. In one  
24 national survey, pregnant workers said they needed more frequent  
25 breaks while pregnant. Prenatal care is also critical for positive  
26 birth outcomes, and pregnant women have cited the need for  
27 flexibility in their work schedule for the purposes of attending

1 doctor visits. Reasonable accommodations for pregnant women in the  
2 workplace can go a long way to promoting healthy pregnancies without  
3 producing an undue hardship on employers.

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

7 (1) Effective January 1, 2018, the authority shall require that  
8 all health care facilities that provide newborn delivery services to  
9 medical assistance clients establish policies and procedures to  
10 provide:

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

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

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

22 (3) The authority shall require managed care organizations to  
23 report on the frequency with which each facility they contract with  
24 is able to adhere to the policies and procedures and the most common  
25 reasons for nonadherence. The authority shall include a summary of  
26 this information in the biennial report required under RCW  
27 74.09.480(3).

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

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

33 (a) "Employer" has the same meaning as and shall be interpreted  
34 consistent with how that term is defined in RCW 49.60.040, except

1 that for the purposes of this section only the threshold of  
2 employees must be fifteen or more.

3 (b) "Pregnancy" includes the employee's pregnancy and pregnancy-  
4 related health conditions.

5 (c) "Reasonable accommodation" means:

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

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

9 (iii) Job restructuring, part-time or modified work schedules,  
10 reassignment to a vacant position, or acquiring or modifying  
11 equipment, devices, or an employee's work station;

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

14 (v) Providing for a temporary transfer to a less strenuous or  
15 less hazardous position;

16 (vi) Providing assistance with manual labor and limits on  
17 lifting;

18 (vii) Scheduling flexibility for prenatal visits; and

19 (viii) Any further pregnancy accommodation an employee may  
20 request, and to which an employer must give reasonable consideration  
21 in consultation with information provided on pregnancy accommodation  
22 by the department of labor and industries or the attending health  
23 care provider of the employee.

24 (d) "Undue hardship" means an action requiring significant  
25 difficulty or expense. An employer may not claim undue hardship for  
26 the accommodations under (c)(i), (ii), and (iv) of this subsection,  
27 or for limits on lifting over seventeen pounds.

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

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

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1 (b) Take adverse action against an employee who requests,  
2 declines, or uses an accommodation under this section that affects  
3 the terms, conditions, or privileges of employment;

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

7 (d) Require an employee to take leave if another reasonable  
8 accommodation can be provided for the employee's pregnancy.

9 (3) An employer may request that the employee provide written  
10 certification from her treating health care professional regarding  
11 the need for reasonable accommodation, except for accommodations  
12 listed in subsection (1)(d) of this section.

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

17 (b) This section does not require an employer to discharge any  
18 employee, transfer any employee with more seniority, or promote any  
19 employee who is not qualified to perform the job, unless the  
20 employer does so or would do so to accommodate other classes of  
21 employees who need accommodation.

22 (5) The department of labor and industries must provide online  
23 education materials explaining the respective rights and  
24 responsibilities of employers and employees who have a health  
25 condition related to pregnancy or childbirth. The online education  
26 materials must be prominently displayed on the department's web  
27 site.

28 (6) The attorney general shall investigate complaints and  
29 enforce this section, including by conference and conciliation. In  
30 addition to the complaint process with the attorney general, any  
31 person believed to be injured by a violation of this section has a  
32 civil cause of action in court to enjoin further violations, or to  
33 recover the actual damages sustained by the person, or both,

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1 together with the cost of suit and reasonable attorneys' fees or any  
2 other appropriate remedy authorized by state or federal law.

3 (7) This section does not preempt, limit, diminish, or otherwise  
4 affect any other provision of law relating to sex discrimination or  
5 pregnancy, or in any way diminish or limit legal protections or  
6 coverage for pregnancy, childbirth, or a pregnancy-related health  
7 condition.

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

11 (1) The authority, in collaboration with the department of  
12 health, department of social and health services, health carriers,  
13 local public health jurisdictions, children's health care providers  
14 including pediatricians, family practitioners, advanced registered  
15 nurse practitioners, certified nurse midwives, and pediatric  
16 subspecialists, community and migrant health centers, parents, and  
17 other purchasers, shall establish a concise set of explicit  
18 performance measures that can indicate whether children enrolled in  
19 the program are receiving health care through an established and  
20 effective medical home, and whether the overall health of enrolled  
21 children is improving. Such indicators may include, but are not  
22 limited to:

23 (a) Childhood immunization rates;

24 (b) Well child care utilization rates, including the use of  
25 behavioral and oral health screening, and validated, structured  
26 developmental screens using tools, that are consistent with  
27 nationally accepted pediatric guidelines and recommended  
28 administration schedule, once funding is specifically appropriated  
29 for this purpose;

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

31 (d) Emergency room utilization;

32 (e) Visual acuity and eye health;

33 (f) Preventive oral health service utilization; and

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1 (g) Children's mental health status. In defining these measures  
2 the authority shall be guided by the measures provided in RCW  
3 71.36.025.

4 Performance measures and targets for each performance measure  
5 must be established and monitored each biennium, with a goal of  
6 achieving measurable, improved health outcomes for the children of  
7 Washington state each biennium.

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

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

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

25 (1) The healthy pregnancy advisory committee is established to  
26 develop a strategy for improving maternal and infant health  
27 outcomes. The advisory committee shall conduct its activities in  
28 consultation with the maternal mortality review panel established in  
29 RCW 70.54.450 and an initiative related to improving maternal and  
30 infant outcomes that is established by the largest association  
31 representing hospitals in Washington. Administration of the advisory  
32 committee by the department must be done within existing resources.

33 (2) The secretary shall appoint up to twenty members to the  
34 advisory committee including experts in maternal and child health,

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

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

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

28 (5) This section expires July 1, 2019."  
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32 By Committee on Commerce, Labor & Sports  
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1        On page 1, line 2 of the title, after "pregnant women;", strike  
2 the rest of the title and insert "amending RCW 74.09.480; adding a  
3 new section to chapter 74.09 RCW; adding a new section to chapter  
4 43.10 RCW; adding a new section to chapter 43.70 RCW; creating a new  
5 section; and providing an expiration date."  
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