

E2SHB 1188 - S COMM AMD
By Committee on Ways & Means

ADOPTED 04/10/2023

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

3 **"Sec. 1.** RCW 43.88C.010 and 2022 c 219 s 2 are each amended to
4 read as follows:

5 (1) The caseload forecast council is hereby created. The council
6 shall consist of two individuals appointed by the governor and four
7 individuals, one of whom is appointed by the chairperson of each of
8 the two largest political caucuses in the senate and house of
9 representatives. The chair of the council shall be selected from
10 among the four caucus appointees. The council may select such other
11 officers as the members deem necessary.

12 (2) The council shall employ a caseload forecast supervisor to
13 supervise the preparation of all caseload forecasts. As used in this
14 chapter, "supervisor" means the caseload forecast supervisor.

15 (3) Approval by an affirmative vote of at least five members of
16 the council is required for any decisions regarding employment of the
17 supervisor. Employment of the supervisor shall terminate after each
18 term of three years. At the end of the first year of each three-year
19 term the council shall consider extension of the supervisor's term by
20 one year. The council may fix the compensation of the supervisor. The
21 supervisor shall employ staff sufficient to accomplish the purposes
22 of this section.

23 (4) The caseload forecast council shall oversee the preparation
24 of and approve, by an affirmative vote of at least four members, the
25 official state caseload forecasts prepared under RCW 43.88C.020. If
26 the council is unable to approve a forecast before a date required in
27 RCW 43.88C.020, the supervisor shall submit the forecast without
28 approval and the forecast shall have the same effect as if approved
29 by the council.

30 (5) A councilmember who does not cast an affirmative vote for
31 approval of the official caseload forecast may request, and the

1 supervisor shall provide, an alternative forecast based on
2 assumptions specified by the member.

3 (6) Members of the caseload forecast council shall serve without
4 additional compensation but shall be reimbursed for travel expenses
5 in accordance with RCW 44.04.120 while attending sessions of the
6 council or on official business authorized by the council.
7 Nonlegislative members of the council shall be reimbursed for travel
8 expenses in accordance with RCW 43.03.050 and 43.03.060.

9 (7) "Caseload," as used in this chapter, means:

10 (a) The number of persons expected to meet entitlement
11 requirements and require the services of public assistance programs,
12 state correctional institutions, state correctional noninstitutional
13 supervision, state institutions for juvenile offenders, the common
14 school system, long-term care, medical assistance, foster care, and
15 adoption support;

16 (b) The number of students who are eligible for the Washington
17 college bound scholarship program and are expected to attend an
18 institution of higher education as defined in RCW 28B.92.030;

19 (c) The number of students who are eligible for the Washington
20 college grant program under RCW 28B.92.200 and 28B.92.205 and are
21 expected to attend an institution of higher education as defined in
22 RCW 28B.92.030; and

23 (d) The number of children who are eligible, as defined in RCW
24 43.216.505, to participate in, and the number of children actually
25 served by, the early childhood education and assistance program.

26 (8) The caseload forecast council shall forecast the temporary
27 assistance for needy families and the working connections child care
28 programs as a courtesy.

29 (9) By January 1, 2023, the caseload forecast council shall
30 present the number of individuals who are assessed as eligible for
31 and have requested a service through the individual and family
32 services waiver and the basic plus waiver administered by the
33 developmental disabilities administration as a courtesy. The caseload
34 forecast council shall be presented with the service request list as
35 defined in RCW 71A.10.020 to aid in development of this information.

36 (10) Beginning with the official forecast submitted in November
37 2022 and subject to the availability of amounts appropriated for this
38 specific purpose, the caseload forecast council shall forecast the
39 number of individuals who are assessed as eligible for and have
40 requested supported living services, a service through the core

1 waiver, an individual and family services waiver, and the basic plus
2 waiver administered by the developmental disabilities administration
3 as a courtesy. The caseload forecast council shall be presented with
4 the service request list as defined in RCW 71A.10.020 to aid in
5 development of this information.

6 (11) As a courtesy, beginning with the official forecast
7 submitted in November 2022, the caseload forecast council shall
8 forecast the number of individuals who are expected to reside in
9 state-operated living alternatives administered by the developmental
10 disabilities administration.

11 (12) The caseload forecast council shall forecast youth
12 participating in the extended foster care program pursuant to RCW
13 74.13.031 separately from other children who are residing in foster
14 care and who are under eighteen years of age.

15 (13) The caseload forecast council shall forecast the number of
16 youth expected to receive behavioral rehabilitation services while
17 involved in the foster care system and the number of screened in
18 reports of child abuse or neglect.

19 (14) The caseload forecast council shall forecast the number of
20 individuals who are functionally and financially eligible for
21 medicaid waiver services administered by the developmental
22 disabilities administration who also meet the criteria outlined in
23 RCW 71A.12.370 and are expected to utilize a medicaid waiver service.

24 (15) Unless the context clearly requires otherwise, the
25 definitions provided in RCW 43.88.020 apply to this chapter.

26 ~~((15))~~ (16) During the 2021-2023 fiscal biennium, and beginning
27 with the November 2021 forecast, the caseload forecast council shall
28 produce an unofficial forecast of the long-term caseload for juvenile
29 rehabilitation as a courtesy.

30 **Sec. 2.** RCW 43.88.058 and 2021 c 334 s 1904 are each amended to
31 read as follows:

32 For the purposes of this chapter, expenditures for the following
33 ~~((foster care, adoption support and related services, and child~~
34 ~~protective))~~ services must be forecasted and budgeted as maintenance
35 level costs:

- 36 (1) Behavioral rehabilitation services placements;
- 37 (2) Social worker and related staff to receive, refer, and
38 respond to screened-in reports of child abuse or neglect ~~((, except in~~
39 ~~fiscal year 2021))~~;

1 (3) Court-ordered parent-child and sibling visitations delivered
2 by contractors; (~~and~~)

3 (4) Those activities currently being treated as maintenance level
4 costs for budgeting or forecasting purposes on June 7, 2018,
5 including, but not limited to: (a) Adoption support and other
6 adoption-related expenses; (b) foster care maintenance payments; (c)
7 child-placing agency management fees; (d) support goods such as
8 clothing vouchers; (e) child aides; and (f) child care for children
9 in foster or relative placements when the caregiver is at work or in
10 school; and

11 (5) Developmental disability waiver slots that are anticipated to
12 be utilized by individuals eligible for a medicaid waiver service
13 under RCW 71A.12.370.

14 **Sec. 3.** RCW 71A.24.005 and 2009 c 194 s 1 are each amended to
15 read as follows:

16 (1) The legislature recognizes that the number of children who
17 have developmental disabilities along with intense behaviors is
18 increasing, and more families are seeking out-of-home placement for
19 their children.

20 (2) The legislature intends to create services and to develop
21 supports for these children, family members, and others involved in
22 the children's lives to avoid disruption to families (~~and~~
23 ~~eliminate~~), help prevent the need for out-of-home placement, and
24 supplement the child welfare services a child may be receiving from
25 the department of children, youth, and families.

26 (3) The legislature directs the department to maintain a federal
27 waiver through which services may be provided to allow children with
28 developmental disabilities and intense behaviors to maintain
29 permanent and stable familial relationships. The legislature intends
30 for these services to be locally based and offered as early as
31 possible to avoid family disruption and out-of-home placement, but
32 also offered to children in out-of-home placement when necessary.

33 **Sec. 4.** RCW 71A.24.010 and 2009 c 194 s 2 are each amended to
34 read as follows:

35 (1) To the extent funding is appropriated for this purpose,
36 intensive behavior support services may be provided by the
37 department, directly or by contract, to children who have

1 developmental disabilities and intense behaviors and to their
2 families.

3 (2) The department shall be the lead administrative agency for
4 children's intensive behavior support services and shall:

5 (a) Collaborate with appropriate parties to develop and implement
6 the intensive in-home support services program within the division of
7 developmental disabilities;

8 (b) Use best practices and evidence-based practices;

9 (c) Provide coordination and planning for the implementation and
10 expansion of intensive in-home services;

11 (d) Contract for the provision of intensive in-home and planned
12 out-of-home services;

13 (e) Monitor and evaluate services to determine whether the
14 program meets standards identified in the service contracts;

15 (f) Collect data regarding the number of families served, and
16 costs and outcomes of the program;

17 (g) Adopt appropriate rules to implement the program;

18 (h) License out-of-home respite placements on a timely basis; and

19 (i) Maintain an appropriate staff-to-client ratio.

20 (3) A child may receive intensive behavior support services when
21 the department has determined that:

22 (a) The child is under the age of twenty-one;

23 (b) The child has a developmental disability and has been
24 determined eligible for these services;

25 (c) The child/family acuity scores are high enough in the
26 assessment conducted by the division of developmental disabilities to
27 indicate the child's behavior puts the child or family at significant
28 risk or is very likely to require an out-of-home placement;

29 (d) The child meets eligibility for the home and community-based
30 care waiver;

31 (e) The child resides in his or her family home or is
32 (~~temporarily~~) in an out-of-home placement (~~with a plan to return~~
33 ~~home~~); and

34 (f) The family agrees to participate in the program and complete
35 the care and support steps outlined in the completed individual
36 support plan(~~;~~ ~~and~~

37 ~~(g) The family is not subject to an unresolved child protective~~
38 ~~services referral).~~

1 NEW SECTION. **Sec. 5.** A new section is added to chapter 71A.12

2 RCW to read as follows:

3 (1) No later than January 1, 2024, the department shall submit to
4 the federal government a request for approval to modify eligibility
5 requirements for the services provided through a medicaid waiver
6 administered by the department to include eligible individuals as
7 specified in RCW 71A.12.370. To the extent consistent with federal
8 law and federal funding requirements, the department shall provide
9 services to eligible individuals as specified in RCW 71A.12.370
10 through a medicaid waiver administered by the department beginning no
11 later than December 1, 2024.

12 (2)(a) The legislature recognizes that children and youth with
13 developmental disabilities who are subject to a dependency have
14 unique support needs. To this end, the legislature intends to explore
15 establishing a new medicaid waiver for this population.

16 (b) By December 1, 2025, the department shall submit a report to
17 the governor and the appropriate committees of the legislature on the
18 feasibility of establishing a new medicaid waiver tailored to meet
19 the needs of dependent children and youth with developmental
20 disabilities who are age 20 or younger and who meet the criteria
21 identified in RCW 71A.12.370(1) and cannot be adequately served
22 through one of the five medicaid waivers administered by the
23 department as of the effective date of this section. The services
24 provided in this waiver shall supplement, and not supplant, the child
25 welfare services and supports a child or youth is entitled to or
26 receives under Title IV-E of the social security act from the
27 department of children, youth, and families, and may not duplicate
28 services or supports available through other funding sources. The
29 report must include:

30 (i) A comprehensive list and description of the services
31 anticipated to be included in the new waiver and the associated costs
32 by each age group;

33 (ii) Information on approaches taken by other states to serve
34 children and youth in dependencies with developmental disabilities;
35 and

36 (iii) Information on the outcome of services being provided under
37 the amended waivers referenced in subsection (1) of this section.

38 (3) The department shall be the lead administrative agency for
39 the waiver design for dependent children and youth and shall
40 collaborate with the department of children, youth, and families and

1 other relevant stakeholders to identify the services and supports
2 currently provided to dependent children and youth and identify
3 services and supports that will supplement supports already provided.
4 The department of children, youth, and families shall provide to the
5 department all information and data that is necessary for the
6 department to determine eligibility for services, to provide
7 appropriate and timely services and supports to qualifying children
8 and youth, to implement and maintain compliance with federal funding
9 requirements, and to complete design of the new waiver.

10 **Sec. 6.** RCW 71A.12.370 and 2021 c 56 s 4 are each amended to
11 read as follows:

12 ~~((When there is funded capacity for services))~~ (1) Services
13 provided through a medicaid waiver administered by the department,
14 ~~((and))~~ to the extent consistent with federal law and federal funding
15 requirements, ~~((priority for that waiver))~~ shall be provided to
16 eligible individuals who ~~((exited))~~ meet the following criteria on or
17 after the effective date of this section:

18 (a) (i) Are subject to a dependency;

19 (ii) Are receiving extended foster care services as defined in
20 RCW 74.13.020; or

21 (iii) Exited a dependency ~~((proceeding under chapter 13.34 RCW~~
22 within the last two years)) or discontinued extended foster care
23 services as defined in RCW 74.13.020; and

24 (b) Will begin receiving waiver services prior to the
25 individual's 25th birthday.

26 (2) Persons meeting the criteria in subsection (1) of this
27 section who are receiving services under the children's intensive
28 behavioral support services waiver under RCW 71A.24.010 must be
29 immediately transferred to a different waiver without a break in
30 waiver coverage when, based on their age, they no longer qualify for
31 the waiver under which they have been receiving services.

32 (3) For purposes of this section, a "dependency" includes both a
33 dependency under chapter 13.34 RCW and circumstances in which an
34 Indian child is in the custody of a federally recognized Indian tribe
35 as defined in RCW 43.376.010 or the tribe's placing agency.

36 NEW SECTION. **Sec. 7.** If specific funding for the purposes of
37 this act, referencing this act by bill or chapter number, is not

1 provided by June 30, 2023, in the omnibus appropriations act, this
2 act is null and void."

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3 On page 1, line 2 of the title, after "services;" strike the
4 remainder of the title and insert "amending RCW 43.88C.010,
5 43.88.058, 71A.24.005, 71A.24.010, and 71A.12.370; adding a new
6 section to chapter 71A.12 RCW; and creating a new section."

EFFECT: Modifies language of the CFC forecast to specify that the forecast should be of those who are expected to utilize a waiver service.

Modifies language of the ML budgeting of the waiver slots to be for those that are expected to utilize a waiver service.

Requires DSHS to submit to the federal government a request for approval to modify eligibility requirements of the existing waivers and, to the extent consistent with federal law and federal funding requirements, to begin serving individuals via these waivers by December 1, 2024.

Rather than requiring DSHS to seek approval for a new waiver, DSHS is required to submit a report by December 1, 2025, on the feasibility of establishing a new waiver that includes: A list and description of the anticipated services that would be delivered via the new waiver and the associated costs by age group; information on approaches taken in other states to serve this population; and information on the outcomes associated with extending eligibility of the existing five waivers to this population.

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