

CERTIFICATION OF ENROLLMENT
SECOND SUBSTITUTE HOUSE BILL 1168

Chapter 288, Laws of 2023

68th Legislature
2023 Regular Session

PRENATAL SUBSTANCE EXPOSURE

EFFECTIVE DATE: July 23, 2023

Passed by the House April 13, 2023
Yeas 97 Nays 0

LAURIE JINKINS

**Speaker of the House of
Representatives**

Passed by the Senate April 7, 2023
Yeas 47 Nays 0

DENNY HECK

President of the Senate

Approved May 4, 2023 3:12 PM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SECOND SUBSTITUTE HOUSE BILL 1168** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

May 5, 2023

**Secretary of State
State of Washington**

SECOND SUBSTITUTE HOUSE BILL 1168

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

State of Washington 68th Legislature 2023 Regular Session

By House Appropriations (originally sponsored by Representatives Simmons, Ramel, Callan, Wylie, Davis, and Ormsby)

READ FIRST TIME 02/16/23.

1 AN ACT Relating to providing prevention services, diagnoses,
2 treatment, and support for prenatal substance exposure; amending RCW
3 71.24.610; adding a new section to chapter 41.05 RCW; adding new
4 sections to chapter 71.24 RCW; and creating new sections.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that:

7 (1) Fetal alcohol spectrum disorders are lifelong physical,
8 developmental, behavioral, and intellectual disabilities caused by
9 prenatal alcohol exposure;

10 (2) According to the federal centers for disease control and
11 prevention, fetal alcohol spectrum disorders affect as many as one in
12 20 people in the United States;

13 (3) The health care authority estimates that one percent of
14 births, or approximately 870 children each year, are born with fetal
15 alcohol spectrum disorders;

16 (4) In addition to alcohol use, other substances consumed during
17 pregnancy may result in prenatal substance exposure affecting the
18 physical, developmental, behavioral, and intellectual abilities of
19 the exposed child;

1 (5) Washington has limited diagnostic capacity and currently
2 lacks the capacity to diagnose and treat every child who needs
3 support and treatment due to prenatal substance exposure;

4 (6) Without appropriate treatment and supports, children born
5 with fetal alcohol spectrum disorders and other prenatal substance
6 disorders are likely to experience adverse outcomes. According to
7 current statistics, these children face adverse outcomes such as:

8 (a) 61 percent of children with fetal alcohol spectrum disorders
9 are suspended or expelled from school by age 12;

10 (b) 90 percent of persons with fetal alcohol spectrum disorders
11 develop comorbid mental health conditions; and

12 (c) 60 percent of youth with fetal alcohol spectrum disorders are
13 involved in the justice system;

14 (7) Untreated and unsupported prenatal substance exposure results
15 in higher costs for the state and worse outcomes for children and
16 their families;

17 (8) Investing in prevention and earlier intervention, including
18 diagnostic capacity, treatment, and services for children and
19 supports for families and caregivers will improve school outcomes;
20 and

21 (9) Effective prenatal substance exposure response requires
22 effective and ongoing cross-agency strategic planning and
23 coordination.

24 NEW SECTION. **Sec. 2.** A new section is added to chapter 41.05
25 RCW to read as follows:

26 (1) By January 1, 2024, the authority, on behalf of clients or
27 potential clients of the department of children, youth, and families
28 as described in this subsection, shall contract with a provider with
29 expertise in comprehensive prenatal substance exposure treatment and
30 family supports to offer services to children over the age of three
31 and families who are or have been involved in the child welfare
32 system or who are at risk of becoming involved in the child welfare
33 system. This contract shall maximize the number of families that can
34 be served through referrals by authority employees and other
35 community partners in order to keep families together, reduce the
36 number of placements, and prevent adverse outcomes for impacted
37 children.

38 (2) By January 1, 2025, the authority, on behalf of clients or
39 potential clients of the department of children, youth, and families

1 as described in this subsection, shall contract with up to three
2 providers across the state, in addition to the contracted provider in
3 subsection (1) of this section, to offer comprehensive treatment
4 services for prenatal substance exposure and family supports for
5 children who were prenatally exposed to substances and who are, or
6 have been, involved in the child welfare system.

7 (3) Comprehensive treatment and family supports must be trauma-
8 informed and may include:

9 (a) Occupational, speech, and language therapy;

10 (b) Behavioral health counseling and caregiver counseling;

11 (c) Sensory processing support;

12 (d) Educational advocacy, psychoeducation, social skills support,
13 and groups;

14 (e) Linkages to community resources; and

15 (f) Family supports and education, including the programs for
16 parents, caregivers, and families recommended by the federal centers
17 for disease control and prevention.

18 (4) The authority shall contract with the provider referenced in
19 subsection (1) of this section to support the providers under
20 contract in subsection (2) of this section by:

21 (a) Creating education and training programs for providers
22 working with children who had prenatal substance exposure; and

23 (b) Offering ongoing coaching and support in creating a safe and
24 healing environment, free from judgment, where families are supported
25 through the challenges of care for children with prenatal substance
26 exposure.

27 (5) The authority, in collaboration with the department of
28 children, youth, and families, shall work with the contracted
29 providers and families to collect relevant outcome data and provide a
30 report on the expansion of services under the contracts and the
31 outcomes experienced by persons receiving services under this
32 section. The authority shall submit the report to the legislature
33 with any recommendations related to improving availability of and
34 access to services and ways to improve outcomes by June 1, 2028.

35 NEW SECTION. **Sec. 3.** A new section is added to chapter 71.24
36 RCW to read as follows:

37 (1) By June 1, 2024, the authority shall submit to the
38 legislature recommendations on ways to increase access to diagnoses,
39 treatment, services, and supports for children who were exposed to

1 alcohol or other substances during pregnancy and their families and
2 caregivers. In creating the recommendations, the authority shall
3 consult with service providers, medical professionals with expertise
4 in diagnosing and treating prenatal substance exposure, families of
5 children who were exposed to alcohol or other substances during
6 pregnancy, communities affected by prenatal substance exposure, and
7 advocates.

8 (2) The recommendations adopted under subsection (1) of this
9 section shall, at a minimum, address:

10 (a) Increasing the availability of evaluation and diagnosis
11 services for children and youth for fetal alcohol spectrum disorders
12 and other prenatal substance disorders, including assuring an
13 adequate payment rate for the interdisciplinary team required for
14 diagnosis and developing sufficient capacity in rural and urban areas
15 so that every child is able to access diagnosis services; and

16 (b) Increasing the availability of treatment for fetal alcohol
17 spectrum disorders and other prenatal substance disorders for all
18 children and youth including all treatments and services recommended
19 by the federal centers for disease control and prevention. The
20 authority shall review all barriers to accessing treatment and make
21 recommendations on removing those barriers, including recommendations
22 related to the definition of medical necessity, prior authorization
23 requirements for diagnosis and treatment services, and limitations of
24 treatment procedure codes and insurance coverage.

25 NEW SECTION. **Sec. 4.** A new section is added to chapter 71.24
26 RCW to read as follows:

27 Subject to the availability of amounts appropriated for this
28 specific purpose, the authority shall contract with a statewide
29 nonprofit entity with expertise in fetal alcohol spectrum disorders
30 and experience in supporting parents and caregivers to offer free
31 support groups for individuals living with fetal alcohol spectrum
32 disorders and their parents and caregivers.

33 **Sec. 5.** RCW 71.24.610 and 2018 c 201 s 4049 are each amended to
34 read as follows:

35 The authority, the department of social and health services, the
36 department (~~of health~~), the department of corrections, the
37 department of children, youth, and families, and the office of the
38 superintendent of public instruction shall execute an interagency

1 agreement to ensure the coordination of identification, prevention,
2 and intervention programs for children who have fetal alcohol
3 exposure and other prenatal substance exposures, and for women who
4 are at high risk of having children with fetal alcohol exposure or
5 other prenatal substance exposures.

6 The interagency agreement shall provide a process for community
7 advocacy groups to participate in the review and development of
8 identification, prevention, and intervention programs administered or
9 contracted for by the agencies executing this agreement.

10 NEW SECTION. **Sec. 6.** If specific funding for the purposes of
11 this act, referencing this act by bill or chapter number, is not
12 provided by June 30, 2023, in the omnibus appropriations act, this
13 act is null and void.

Passed by the House April 13, 2023.
Passed by the Senate April 7, 2023.
Approved by the Governor May 4, 2023.
Filed in Office of Secretary of State May 5, 2023.

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