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SENATE BILL 5872 - CC

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State of Washington

59th Legislature

2005 Regular Session

By Senators Stevens, Carrell, Mulliken, Deccio, Finkbeiner, Delvin, Benson, Johnson, Oke, Hewitt and Schmidt

Read first time 02/10/2005. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to creating a department of family and children's  
2 services; amending RCW 43.17.020; reenacting and amending RCW  
3 43.17.010; adding a new section to chapter 41.06 RCW; adding a new  
4 chapter to Title 43 RCW; creating new sections; and providing an  
5 expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds it is necessary to  
8 realign Washington's child welfare system over time. The legislature  
9 finds that although it is the stated mission of the children's  
10 administration in the department of social and health services to  
11 protect children, help families care for and parent their children, and  
12 find safe homes for children, the mission may be compromised by the  
13 goals, objectives, size, and complexity of the larger agency of which  
14 it is a part.

15 The legislature finds that many children served by our state's  
16 juvenile rehabilitation programs come from families where there has  
17 been abuse and neglect and the lack of attention to the needs of these  
18 families to care for and parent their children safely has contributed  
19 to juvenile crime.

1       The Braam lawsuit found that the children's administration was  
2 unable to adequately and safely support children in foster care and  
3 foster parents who provide the care for them. The legislature believes  
4 that the children's administration is unable to implement its own  
5 policies because it is distracted from its goals by its location in the  
6 department of social and health services, a large umbrella agency.

7       The legislature finds that department's current children's  
8 administration does not set adequate indicators of success,  
9 successfully compare results to previous indicators, and then demand  
10 and achieve improvement. The legislature finds that there are  
11 inadequate key performance indicators for protective services,  
12 investigations, and foster care services for comparison on a monthly  
13 basis, and over time, to evaluate if the system is working to protect  
14 children. The legislature intends for there to be accountability for  
15 the safety and protection of children in the system. The legislature  
16 believes that an independent agency will be more efficient and more  
17 effective than under the current umbrella agency and that a small  
18 operational and administrative structure will improve employee morale.

19       The legislature intends that it be the mission of the new  
20 department of family and children's services to first protect abused  
21 and neglected children, support the efforts of families to care for and  
22 parent their own children safely, and provide quality care and  
23 permanent families for children, in partnership with tribes, foster  
24 parents, and communities. The legislature intends that the new  
25 department of family and children's services will be responsible to and  
26 accountable for the stable placement of children, the obtaining of  
27 mental health services for families and their children, the improvement  
28 of foster parent training and support, identifying and correcting  
29 unsafe and inappropriate placements, and ensuring that siblings are not  
30 separated from each other when placed in out-of-home care, increasing  
31 the quality and frequency of contact and visitation between siblings in  
32 out-of-home placement, and ensuring services to adolescents.

33       The legislature intends that the separate agency focus on timely  
34 recruitment and retention of high quality permanent families for  
35 children and the provision of adequate support for foster parents. A  
36 single state agency can develop a true partnership with tribes, foster  
37 parents, and communities around the need for permanent homes for

1 children in a more effective way than as part of a large umbrella  
2 agency.

3 The legislature also expects the new department to collaborate with  
4 and when possible to work with tribes, foster parents, and communities  
5 to anticipate problems and prevent child abuse and neglect, and to  
6 provide effective services to protect children and strengthen families  
7 when child abuse and neglect have occurred. The legislature finds that  
8 to learn how to prevent abuse and neglect of children, and to gain a  
9 greater understanding of the prevalence and location of this abuse,  
10 valid research data and program statistics must be shared. The  
11 legislature finds that high quality services will be provided when  
12 accountability is expected and there is motivation for higher quality  
13 strategies for protecting children.

14 The legislature finds that the public does not have confidence in  
15 the department of social and health services' ability to fulfill the  
16 mission of protecting children, helping their parents, and finding  
17 families for children, in a cost-effective manner. The legislature  
18 finds that confidence in government is critical to achieving the goals  
19 of the mission. The legislature finds that this confidence is built by  
20 the willingness to take responsibility. The current children's  
21 administration does not adequately take responsibility and the umbrella  
22 agency does not hold it accountable for meeting its goals and  
23 objectives.

24 The legislature intends that because the new department of family  
25 and children's services is spending other people's money, those people,  
26 the public, want government to install a performance-based system for  
27 measuring and evaluating job performance of both employees and of those  
28 we contract with to assist in improving the actions necessary to  
29 fulfill the mission. The public expects government to have a system to  
30 determine whether the goals of the mission are being met. The  
31 legislature intends for the public to regain confidence that the new  
32 department can fulfill its mission.

33 The legislature finds that the current children's administration  
34 failed its federal audit, and that if it had followed its own published  
35 guidelines in several areas, it would not have failed, or would have  
36 been more successful in some of the audited areas.

37 The legislature intends that there will be more accountability for

1 the safety, well-being, and permanence for children in a separate  
2 department of family and children's services.

3 The legislature intends that adequate attention paid to families  
4 and children with regard to preventing and reducing the incidences of  
5 abuse and neglect will help reduce delinquency and juvenile crime.

6 The legislature intends that families will be better supported in  
7 their efforts to care for and parent their own children if the services  
8 are located in a single accountable agency. The current children's  
9 administration has many methods set in guidelines but does not produce  
10 the results needed to ensure the mission is accomplished. The  
11 legislature intends that the separate state agency leadership be held  
12 accountable to produce results.

13 NEW SECTION. **Sec. 2.** Unless the context clearly requires  
14 otherwise, the definitions in this section apply throughout this  
15 chapter.

16 (1) "Department" means the department of family and children's  
17 services.

18 (2) "Director" means the director of family and children's  
19 services.

20 NEW SECTION. **Sec. 3.** The department of family and children's  
21 services is created. The department shall be vested with all powers  
22 and duties transferred to it under this chapter and such other powers  
23 and duties as may be authorized by law.

24 NEW SECTION. **Sec. 4.** (1) All powers, duties, and functions of the  
25 department of social and health services pertaining to children and  
26 family services and the juvenile rehabilitation administration are  
27 transferred to the department of family and children's services. All  
28 references to the director or the department of social and health  
29 services in the Revised Code of Washington shall be construed to mean  
30 the director or the department of family and children's services when  
31 referring to the functions transferred in this section.

32 (2)(a) All reports, documents, surveys, books, records, files,  
33 papers, or written material in the possession of the department of  
34 social and health services pertaining to the powers, functions, and  
35 duties transferred shall be delivered to the custody of the department

1 of family and children's services. All cabinets, furniture, office  
2 equipment, motor vehicles, and other tangible property employed by the  
3 department of social and health services in carrying out the powers,  
4 functions, and duties transferred shall be made available to the  
5 department of family and children's services. All funds, credits, or  
6 other assets held in connection with the powers, functions, and duties  
7 transferred shall be assigned to the department of family and  
8 children's services.

9 (b) Any appropriations made to the department of social and health  
10 services for carrying out the powers, functions, and duties transferred  
11 shall, on the effective date of this section, be transferred and  
12 credited to the department of family and children's services.

13 (c) Whenever any question arises as to the transfer of any  
14 personnel, funds, books, documents, records, papers, files, equipment,  
15 or other tangible property used or held in the exercise of the powers  
16 and the performance of the duties and functions transferred, the  
17 director of financial management shall make a determination as to the  
18 proper allocation and certify the same to the state agencies concerned.

19 (3) All employees of the department of social and health services  
20 engaged in performing the powers, functions, and duties transferred are  
21 transferred to the jurisdiction of the department of family and  
22 children's services. All employees classified under chapter 41.06 RCW,  
23 the state civil service law, are assigned to the department of family  
24 and children's services to perform their usual duties upon the same  
25 terms as formerly, without any loss of rights, subject to any action  
26 that may be appropriate thereafter in accordance with the laws and  
27 rules governing state civil service.

28 (4) All rules and all pending business before the department of  
29 social and health services pertaining to the powers, functions, and  
30 duties transferred shall be continued and acted upon by the department  
31 of family and children's services. All existing contracts and  
32 obligations shall remain in full force and shall be performed by the  
33 department of family and children's services.

34 (5) The transfer of the powers, duties, functions, and personnel of  
35 the department of social and health services shall not affect the  
36 validity of any act performed before the effective date of this  
37 section.

1 (6) If apportionments of budgeted funds are required because of the  
2 transfers directed by this section, the director of financial  
3 management shall certify the apportionments to the agencies affected,  
4 the state auditor, and the state treasurer. Each of these shall make  
5 the appropriate transfer and adjustments in funds and appropriation  
6 accounts and equipment records in accordance with the certification.

7 (7) Nothing contained in this section may be construed to alter any  
8 existing collective bargaining unit or the provisions of any existing  
9 collective bargaining agreement until the agreement has expired or  
10 until the bargaining unit has been modified by action of the personnel  
11 resources board as provided by law.

12 NEW SECTION. **Sec. 5.** The executive head and appointing authority  
13 of the department shall be the director. The director shall be  
14 appointed by the governor, with the consent of the senate, and shall  
15 serve at the pleasure of the governor. The director shall be paid a  
16 salary to be fixed by the governor in accordance with RCW 43.03.040.  
17 If a vacancy occurs in the position while the senate is not in session,  
18 the governor shall make a temporary appointment until the next meeting  
19 of the senate.

20 NEW SECTION. **Sec. 6.** (1) The director may create such  
21 administrative structures as the director considers appropriate, except  
22 as otherwise specified by law. In creating administrative structures,  
23 the director shall endeavor to promote efficient public management and  
24 to improve programs.

25 (2) The director may appoint assistant directors as may be needed  
26 to administer the department. The director may employ such personnel  
27 as may be necessary for the administration of the department. This  
28 employment shall be in accordance with the state civil service law,  
29 chapter 41.06 RCW, except as otherwise provided.

30 (3) Any power or duty vested in or transferred to the director by  
31 law or executive order may be delegated by the director to any officer  
32 or employee; but the director shall be responsible for the official  
33 acts of the officers and employees of the department.

34 NEW SECTION. **Sec. 7.** The director may appoint such advisory  
35 committees or councils as required by any federal legislation as a

1 condition to the receipt of federal funds by the department. The  
2 director may also appoint statewide committees or councils on such  
3 subject matters as are or come within the department's  
4 responsibilities.

5 Members of state advisory committees or councils created under this  
6 section may be paid their travel expenses in accordance with RCW  
7 43.03.050 and 43.03.060.

8 NEW SECTION. **Sec. 8.** In furtherance of the policy of the state to  
9 cooperate with the federal government in all of the programs under the  
10 jurisdiction of the department, such rules as may become necessary to  
11 entitle the state to participate in federal funds may be adopted,  
12 unless expressly prohibited by law. Any internal reorganization  
13 carried out under the terms of this chapter shall meet federal  
14 requirements that are a necessary condition to state receipt of federal  
15 funds. Any section or provision of law dealing with the department  
16 that may be susceptible to more than one construction shall be  
17 interpreted in favor of the construction most likely to comply with  
18 federal laws entitling this state to receive federal funds for the  
19 various programs of the department. If any law dealing with the  
20 department is ruled to be in conflict with federal requirements that  
21 are a prescribed condition of the allocation of federal funds to the  
22 state, or to any departments or agencies thereof, the conflicting part  
23 is inoperative solely to the extent of the conflict.

24 NEW SECTION. **Sec. 9.** A new section is added to chapter 41.06 RCW  
25 to read as follows:

26 In addition to the exemptions under RCW 41.06.070, the provisions  
27 of this chapter shall not apply in the department of family and  
28 children's services to the director, the director's personal secretary,  
29 all assistant directors, and one confidential secretary for each  
30 assistant director.

31 NEW SECTION. **Sec. 10.** (1) The director of financial management  
32 and the secretary of social and health services shall jointly develop  
33 a reorganization implementation plan to implement sections 2 through 9  
34 of this act. The plan shall take into account recommendations from  
35 interested individuals.

1 (2) The plan shall detail the implementation steps to effectuate  
2 the transfer of the:

3 (a) Children's administration relating to children to the new  
4 family and children's services agency; and

5 (b) Juvenile rehabilitation administration to the new family and  
6 children's services agency.

7 (3) In developing the recommendations required under this section,  
8 the director and secretary shall consult with the directors of the  
9 departments of general administration and personnel to ensure that no  
10 duplication of functions will occur between the departments of general  
11 administration, personnel, and other departments.

12 (4) The completed reorganization implementation plan shall be  
13 submitted to the governor and the appropriate standing committees of  
14 the legislature by November 15, 2005.

15 (5) The plan shall include details addressing the following areas  
16 of legislative, public, and departmental concerns:

17 (a) Assessment and increased accountability measures over all  
18 transferred functions;

19 (b) Quantifiable outcomes for all transferred functions;

20 (c) Equitable cost-effective coordinated service delivery and  
21 continuity of care enhancements, including coordination with all  
22 relevant service delivery components at the state, local, and private  
23 level for the family and individuals in need;

24 (d) Staffing support and caseload management enhancements;

25 (e) Retention of the collocation of facilities wherever  
26 economically possible until at least the year 2008, including  
27 procedures for client referrals to new departments;

28 (f) Federal requirements, including but not limited to federal  
29 reforms and the ability to continue participating to the maximum extent  
30 possible in the receipt of federal funds and grants;

31 (g) Promotion of public and private partnerships; and

32 (h) Retention of centralized core administrative services such as  
33 payment, financial, and information systems, until at least the year  
34 2008.

35 (6) By December 15, 2005, the director of financial management and  
36 the secretary of the department of social and health services shall  
37 jointly submit to the governor and the appropriate standing committees



1 of the legislature any proposed legislation necessary to implement the  
2 reorganization implementation plan.

3 (7) This section expires June 30, 2006.

4 **Sec. 11.** RCW 43.17.010 and 1993 sp.s. c 2 s 16, 1993 c 472 s 17,  
5 and 1993 c 280 s 18 are each reenacted and amended to read as follows:

6 There shall be departments of the state government which shall be  
7 known as (1) the department of social and health services, (2) the  
8 department of ecology, (3) the department of labor and industries, (4)  
9 the department of agriculture, (5) the department of fish and wildlife,  
10 (6) the department of transportation, (7) the department of licensing,  
11 (8) the department of general administration, (9) the department of  
12 community, trade, and economic development, (10) the department of  
13 veterans affairs, (11) the department of revenue, (12) the department  
14 of retirement systems, (13) the department of corrections, (~~and~~) (14)  
15 the department of health, (~~and~~) (15) the department of financial  
16 institutions, and (16) the department of family and children's  
17 services, which shall be charged with the execution, enforcement, and  
18 administration of such laws, and invested with such powers and required  
19 to perform such duties, as the legislature may provide.

20 **Sec. 12.** RCW 43.17.020 and 1995 1st sp.s. c 2 s 2 are each amended  
21 to read as follows:

22 There shall be a chief executive officer of each department to be  
23 known as: (1) The secretary of social and health services, (2) the  
24 director of ecology, (3) the director of labor and industries, (4) the  
25 director of agriculture, (5) the director of fish and wildlife, (6) the  
26 secretary of transportation, (7) the director of licensing, (8) the  
27 director of general administration, (9) the director of community,  
28 trade, and economic development, (10) the director of veterans affairs,  
29 (11) the director of revenue, (12) the director of retirement systems,  
30 (13) the secretary of corrections, (~~and~~) (14) the secretary of  
31 health, (~~and~~) (15) the director of financial institutions, and (16)  
32 the director of family and children's services.

33 Such officers, except the secretary of transportation and the  
34 director of fish and wildlife, shall be appointed by the governor, with  
35 the consent of the senate, and hold office at the pleasure of the  
36 governor. The secretary of transportation shall be appointed by the

1 transportation commission as prescribed by RCW 47.01.041. The director  
2 of fish and wildlife shall be appointed by the fish and wildlife  
3 commission as prescribed by RCW 77.04.055.

4 NEW SECTION. **Sec. 13.** Sections 2 through 8 of this act constitute  
5 a new chapter in Title 43 RCW.

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