

ESHB 1774 - S COMM AMD

By Committee on Human Services & Corrections

ADOPTED AND ENGROSSED 4/15/13

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

3 "NEW SECTION. **Sec. 1.** (1) The legislature recognizes that the  
4 goals of the child welfare system are to protect the safety,  
5 permanence, and well-being of the children it serves. The legislature  
6 further recognizes the importance of maintaining publicly accessible  
7 data that tracks the performance of the child welfare system, leading  
8 to transparency and public understanding of the system.

9 (2) The legislature believes it is important to measure safety,  
10 permanence, and well-being such that the public and the legislature may  
11 understand how the child welfare system is performing. This  
12 information will also serve the legislature in determining priorities  
13 for investment of public dollars as well as need for substantive  
14 legislative changes to facilitate improvement.

15 (3) The reports to the legislature under section 2 of this act will  
16 be used to provide feedback to the department of social and health  
17 services. The agencies referenced in section 2 of this act will not  
18 disclose individually identifiable private information except as  
19 allowable under federal and state law.

20 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.13 RCW  
21 to read as follows:

22 (1) A university-based child welfare research entity and the  
23 department, in collaboration with other stakeholders, shall develop  
24 measurements in the areas of safety, permanency, and well-being, using  
25 existing and available data. Measurements must be calculated from data  
26 used in the routine work of the state agencies' data and information  
27 technology departments. Any new record linkage or data-matching  
28 activities required in fulfillment of this section may be performed by

1 the research entity pursuant to agreements developed under subsection  
2 (6) of this section.

3 (2) For the purposes of this section, "state agencies" means any  
4 agency or subagency providing data used in the integrated client  
5 database maintained by the research and data analysis division of the  
6 department. Any exchange of data must be in accordance with applicable  
7 federal and state law.

8 (3) All measurements must use a methodology accepted by the  
9 scientific community. All measurements must address any  
10 disproportionate racial and ethnic inequality. The initial  
11 measurements must be developed by December 1, 2013.

12 (4) The measurements may not require the state agencies to revise  
13 their data collection systems, and may not require the state agencies  
14 to provide individually identifiable information.

15 (5) The state agencies shall provide the research entity with all  
16 measurement data related to the measurements developed under this  
17 section at least quarterly beginning July 1, 2014. The research entity  
18 shall make any nonidentifiable data publicly available. The research  
19 entity shall report on the data to the legislature and the governor  
20 annually starting December 31, 2014.

21 (6) By January 1, 2014, the state agencies shall execute agreements  
22 with the research entity to enable sharing of data pursuant to RCW  
23 42.48.020 sufficient to comply with this section.

24 (7) The fact that the research entity has chosen to use a specific  
25 measure, use a specific baseline, or compare any measure to a baseline  
26 is not admissible as evidence of negligence by the department in a  
27 civil action.

28 **Sec. 3.** RCW 74.13B.020 and 2012 c 205 s 3 are each amended to read  
29 as follows:

30 (1) No later than (~~December 1, 2013~~) July 1, 2014, the department  
31 shall enter into performance-based contracts for the provision of  
32 family support and related services. The department may enter into  
33 performance-based contracts for additional services, other than case  
34 management.

35 (2) (~~Beginning December 1, 2013, the department may not renew its~~  
36 ~~current contracts with individuals or entities for the provision of the~~  
37 ~~child welfare services included in performance based contracts under~~

1 ~~this section for services in geographic areas served by network~~  
2 ~~administrators under such contracts, except as mutually agreed upon~~  
3 ~~between the department and the network administrator to allow for the~~  
4 ~~successful transition of services that meet the needs of children and~~  
5 ~~families.~~

6 (+3)) The department shall conduct a procurement process to enter  
7 into performance-based contracts with one or more network  
8 administrators for family support and related services. As part of the  
9 procurement process, the department shall consult with department  
10 caseworkers, the exclusive bargaining representative for employees of  
11 the department, tribal representatives, parents who were formerly  
12 involved in the child welfare system, youth currently or previously in  
13 foster care, child welfare services researchers, and the Washington  
14 state institute for public policy to assist in identifying the  
15 categories of family support and related services that will be included  
16 in the procurement. The categories of family support and related  
17 services shall be defined no later than July 15, 2012. In identifying  
18 services, the department must review current data and research related  
19 to the effectiveness of family support and related services that  
20 mitigate child safety concerns and promote permanency, including  
21 reunification, and child well-being. Expenditures for family support  
22 and related services purchased under this section must remain within  
23 the levels appropriated in the operating budget.

24 ((+4)) (3)(a) Network administrators shall, directly or through  
25 subcontracts with service providers:

26 (i) Assist caseworkers in meeting their responsibility for  
27 implementation of case plans and individual service and safety plans;  
28 and

29 (ii) Provide the family support and related services within the  
30 categories of contracted services that are included in a child or  
31 family's case plan or individual service and safety plan within funds  
32 available under contract.

33 (b) While the department caseworker retains responsibility for case  
34 management, nothing in chapter 205, Laws of 2012 limits the ability of  
35 the department to continue to contract for the provision of case  
36 management services by child-placing agencies, behavioral  
37 rehabilitation services agencies, or other entities that provided case  
38 management under contract with the department prior to July 1, 2005.

1       (~~(+5)~~) (4) In conducting the procurement, the department shall  
2 actively consult with other state agencies with relevant expertise,  
3 such as the health care authority, and with philanthropic entities with  
4 expertise in performance-based contracting for child welfare services.  
5 The director of the office of financial management must approve the  
6 request for proposal prior to its issuance.

7       (~~(+6)~~) (5) The procurement process must be developed and  
8 implemented in a manner that complies with applicable provisions of  
9 intergovernmental agreements between the state of Washington and tribal  
10 governments and must provide an opportunity for tribal governments to  
11 contract for service delivery through network administrators.

12       (~~(+7)~~) (6) The procurement and resulting contracts must include,  
13 but are not limited to, the following standards and requirements:

14       (a) The use of family engagement approaches to successfully  
15 motivate families to engage in services and training of the network's  
16 contracted providers to apply such approaches;

17       (b) The use of parents and youth who are successful veterans of the  
18 child welfare system to act as mentors through activities that include,  
19 but are not limited to, helping families navigate the system,  
20 facilitating parent engagement, and minimizing distrust of the child  
21 welfare system;

22       (c) The establishment of qualifications for service providers  
23 participating in provider networks, such as appropriate licensure or  
24 certification, education, and accreditation by professional accrediting  
25 entities;

26       (d) Adequate provider capacity to meet the anticipated service  
27 needs in the network administrator's contracted service area. The  
28 network administrator must be able to demonstrate that its provider  
29 network is culturally competent and has adequate capacity to address  
30 disproportionality, including utilization of tribal and other ethnic  
31 providers capable of serving children and families of color or who need  
32 language-appropriate services;

33       (e) Fiscal solvency of network administrators and providers  
34 participating in the network;

35       (f) The use of evidence-based, research-based, and promising  
36 practices, where appropriate, including fidelity and quality assurance  
37 provisions;

1 (g) Network administrator quality assurance activities, including  
2 monitoring of the performance of providers in their provider network,  
3 with respect to meeting measurable service outcomes;

4 (h) Network administrator data reporting, including data on  
5 contracted provider performance and service outcomes; and

6 (i) Network administrator compliance with applicable provisions of  
7 intergovernmental agreements between the state of Washington and tribal  
8 governments and the federal and Washington state Indian child welfare  
9 act.

10 ~~((+8))~~ (7) As part of the procurement process under this section,  
11 the department shall issue the request for proposals or request for  
12 information no later than December 31, ~~((2012. The department shall~~  
13 ~~notify the apparently successful bidders no later than June 30, 2013))~~  
14 2013, shall begin implementation of performance-based contracting no  
15 later than July 1, 2014, and shall fully implement performance-based  
16 contracting no later than July 1, 2015.

17 ~~((+9))~~ (8) Performance-based payment methodologies must be used in  
18 network administrator contracting. Performance measures should relate  
19 to successful engagement by a child or parent in services included in  
20 their case plan, and resulting improvement in identified problem  
21 behaviors and interactions. For the initial three-year period of  
22 implementation of performance-based contracting, the department may  
23 transfer financial risk for the provision of services to network  
24 administrators only to the limited extent necessary to implement a  
25 performance-based payment methodology, such as phased payment for  
26 services. However, the department may develop a shared savings  
27 methodology through which the network administrator will receive a  
28 defined share of any savings that result from improved performance. If  
29 the department receives a Title IV-E waiver, the shared savings  
30 methodology must be consistent with the terms of the waiver. If a  
31 shared savings methodology is adopted, the network administrator shall  
32 reinvest the savings in enhanced services to better meet the needs of  
33 the families and children they serve.

34 ~~((+10))~~ (9) The department must actively monitor network  
35 administrator compliance with the terms of contracts executed under  
36 this section.

37 ~~((+11))~~ (10) The use of performance-based contracts under this  
38 section must be done in a manner that does not adversely affect the

1 state's ability to continue to obtain federal funding for child  
2 welfare-related functions currently performed by the state and with  
3 consideration of options to further maximize federal funding  
4 opportunities and increase flexibility in the use of such funds,  
5 including use for preventive and in-home child welfare services.

6 **Sec. 4.** RCW 74.13.360 and 2012 c 205 s 8 are each amended to read  
7 as follows:

8 (1) No later than December 30, (~~(2015)~~) 2016:

9 (a) In the demonstration sites selected under RCW 74.13.368(4)(a),  
10 child welfare services shall be provided by supervising agencies with  
11 whom the department has entered into performance-based contracts.  
12 Supervising agencies may enter into subcontracts with other licensed  
13 agencies; and

14 (b) Except as provided in subsection (3) of this section, and  
15 notwithstanding any law to the contrary, the department may not  
16 directly provide child welfare services to families and children  
17 provided child welfare services by supervising agencies in the  
18 demonstration sites selected under RCW 74.13.368(4)(a).

19 (2) No later than December 30, (~~(2015)~~) 2016, for families and  
20 children provided child welfare services by supervising agencies in the  
21 demonstration sites selected under RCW 74.13.368(4)(a), the department  
22 is responsible for only the following:

23 (a) Monitoring the quality of services for which the department  
24 contracts under this chapter;

25 (b) Ensuring that the services are provided in accordance with  
26 federal law and the laws of this state, including the Indian child  
27 welfare act;

28 (c) Providing child protection functions and services, including  
29 intake and investigation of allegations of child abuse or neglect,  
30 emergency shelter care functions under RCW 13.34.050, and referrals to  
31 appropriate providers; and

32 (d) Issuing licenses pursuant to chapter 74.15 RCW.

33 (3) No later than December 30, (~~(2015)~~) 2016, for families and  
34 children provided child welfare services by supervising agencies in the  
35 demonstration sites selected under RCW 74.13.368(4)(a), the department  
36 may provide child welfare services only:

1 (a) For the limited purpose of establishing a control or comparison  
2 group as deemed necessary by the child welfare transformation design  
3 committee, with input from the Washington state institute for public  
4 policy, to implement the demonstration sites selected and defined  
5 pursuant to RCW 74.13.368(4)(a) in which the performance in achieving  
6 measurable outcomes will be compared and evaluated pursuant to RCW  
7 74.13.370; or

8 (b) In an emergency or as a provider of last resort. The  
9 department shall adopt rules describing the circumstances under which  
10 the department may provide those services. For purposes of this  
11 section, "provider of last resort" means the department is unable to  
12 contract with a private agency to provide child welfare services in a  
13 particular geographic area or, after entering into a contract with a  
14 private agency, either the contractor or the department terminates the  
15 contract.

16 (4) For purposes of this chapter, on and after September 1, 2010,  
17 performance-based contracts shall be structured to hold the supervising  
18 agencies accountable for achieving the following goals in order of  
19 importance: Child safety; child permanency, including reunification;  
20 and child well-being.

21 (5) A federally recognized tribe located in this state may enter  
22 into a performance-based contract with the department to provide child  
23 welfare services to Indian children whether or not they reside on a  
24 reservation. Nothing in this section prohibits a federally recognized  
25 Indian tribe located in this state from providing child welfare  
26 services to its members or other Indian children pursuant to existing  
27 tribal law, regulation, or custom, or from directly entering into  
28 agreements for the provision of such services with the department, if  
29 the department continues to otherwise provide such services, or with  
30 federal agencies.

31 NEW SECTION. **Sec. 5.** RCW 74.13.368 (Performance-based contracts--  
32 Child welfare transformation design committee) and 2012 c 205 s 10,  
33 2010 c 291 s 2, & 2009 c 520 s 8 are each suspended as of the effective  
34 date of this section until December 1, 2015."

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**ADOPTED 4/15/13**

1        On page 1, line 1 of the title, after "Relating to" strike the  
2 remainder of the title and insert "measuring performance and  
3 performance-based contracting of the child welfare system; amending RCW  
4 74.13B.020 and 74.13.360; adding a new section to chapter 74.13 RCW;  
5 and creating new sections."

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