

HOUSE BILL REPORT

2ESSB 5890

As Passed House - Amended:

June 30, 2017

Title: An act relating to foster care and adoption support.

Brief Description: Concerning foster care and adoption support.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators O'Ban, Braun and Rolfes).

Brief History:

Committee Activity:

None.

Third Special Session

Floor Activity:

Passed House - Amended: 6/30/17, 93-0.

**Brief Summary of Second Engrossed Substitute Bill
(As Amended by House)**

- Expands respite care for foster parents to include short-term support provided by case aides who provide temporary assistance to foster parents as needed to support the parental efforts of foster parents, subject to funding appropriated specifically for this purpose.
- Requires the Washington State Institute for Public Policy to assess the impact of this short-term care on the retention of foster homes, the number of placements a foster child receives, and the return on investment to the state.
- Requires the Department of Social and Health Services (DSHS) or the Office of Innovation, Alignment, and Accountability if House Bill 1661 passes, in consultation with stakeholders, to identify a system of support services to be provided to foster parents to assist in their efforts with foster children to be implemented statewide and to submit a plan to the Legislature no later than January 15, 2018, that includes estimated costs to implement these support services and recommendations for implementing them in a phased-in manner.
- Establishes a process for certain previously licensed foster homes to obtain a provisional expedited license while awaiting license renewal.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- Requires the DSHS to establish a Case Review Panel to review all foster care cases where permanency is not achieved within 18 months after being placed in foster care, within existing appropriation levels.
- Increases the cap for adoption support maintenance payments for children five years of age and older.
- Extends eligibility in the College Bound Scholarship Program to include individuals who were adopted between the ages of 14 and 18 and allows foster youth and individuals adopted between the ages of 14 and 18 to remain eligible for the scholarship if they have received a high school equivalency certificate.
- Repeals the income eligibility rules for nonparental caregivers receiving a Temporary Assistance for Needy Families grant on behalf of a child who is living with the caregiver.
- Creates the Child Welfare System Improvement Account in the State Treasury to be used for foster home licensing, achieving permanency for children, support and assistance to foster parents, and improving and increasing placement options.
- Repeals the Child and Family Reinvestment Account and transfers residual balances to the state General Fund.
- Removes requirement that a family participating in the Family Assessment Response must sign a written agreement in order to receive services.
- Requires the DSHS, with technical consultation from the Caseload Forecast Council and associated work groups, to review the forecasts of licensed foster care to ensure all youth in licensed foster care are included in the forecast and that maintenance level costs, not including the costs associated with behavioral rehabilitation services are accurately calculated.

Staff: Luke Wickham (786-7146).

Background:

Foster Care Respite Care.

The DSHS offers a program of respite care to provide temporary, short-term relief to foster parents who care for foster children with emotional, mental, or physical handicaps. Respite care is designed to minimize disruption to the foster child.

Dependency Review/Permanency Planning Hearings.

Current law requires that the status of all children in foster care is to be reviewed by the court at least every six months. The purpose of these hearings are to review the progress of the parties and determine whether court supervision should continue.

The purpose of a permanency planning hearing is to review the permanency plan for a child in foster care, inquire into the welfare of the child, determine progress made in the case, and reach decisions regarding the permanent placement of the child. Current law requires that a permanency planning hearing must be held 12 months after a child has been placed in foster care in all cases where the child has remained in foster care for at least nine months and an adoption decree, guardianship order, or permanent custody order has not previously been entered.

Adoption Support Maintenance Payments.

The DSHS must, when establishing maintenance payments for children who are adopted, consider the size of the family, including the adoptive child; the usual living expenses of the family; the special needs of any family member including education needs; the family income; the family resources and plan for savings; the medical and hospitalization needs of the family; the family's means of purchasing or otherwise receiving such care; and any other expenses likely to be needed by the child to be adopted. Currently, adoption support maintenance payments are capped at no more than 80 percent of the foster care maintenance payment for that child had the child remained in a foster family home during the same period.

College Bound Scholarship Program.

The College Bound Scholarship Program (CBSP) was established in 2007 and provides financial aid to cover the remaining cost of tuition at the rates of public institutions of higher education after subtracting other forms of aid and a \$500 book allowance. Students must sign up in the seventh or eighth grade, graduate from high school with a C or better average, be without a felony conviction, and successfully apply to a state higher education institution.

To be eligible to sign up for the CBSP, students must either qualify for free or reduced lunch or be in foster care. Students in foster care must be in grades seven through twelve or be between the ages of 18 and 21 and have not graduated from high school. In order to remain eligible for the the CBSP when they graduate from high school, students must have a family income below 65 percent of the median family income and they must successfully enroll in postsecondary education.

Shared Leave.

In 1989, the Legislature established a leave sharing program for state and school district employees. The leave sharing program allows employees who have exhausted their accrued leave to use additional paid leave donated by their colleagues under certain qualifying circumstances. In order to qualify for the leave program, the employee must be likely to go on leave-without-pay status or termination of employment as a result of a qualifying circumstance. The amount of shared leave an employee may receive is determined by the agency head and may not exceed the requested amount, up to 522 days unless extraordinary circumstances apply.

Child and Family Reinvestment Account.

The Child and Family Reinvestment Account (CFRA) was created in 2012 to improve outcomes related to: safely reducing entry into the foster care system and preventing reentry, safely increasing reunifications, achieving permanency for children unable to be reunified, and improving outcomes for youth who will age out of the foster care system. Revenues to

the CFRA consist of savings to the state General Fund resulting from reductions in foster care caseloads and per capita costs and any other public or private funds appropriated to or deposited into the account.

Temporary Assistance for Needy Families.

Temporary Assistance for Needy Families (TANF) is a federal block grant that provides temporary cash assistance, subsidized childcare, and work programs for families. States use TANF block grants to operate their own programs. State programs differ, but operate in accordance with the following purposes set forth in federal law:

- to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- to end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- to prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- to encourage the formation and maintenance of two-parent families.

In 2011 legislation was enacted that required the DSHS to establish income eligibility rules for nonparental caregivers receiving a TANF grant on behalf of a child, other than a foster child, who is living with the caregiver. A caregiver with an income above 300 percent of the federal poverty level (FPL) is not eligible for child-only TANF benefits. Nonparental caregivers with incomes above 200 percent but less than 300 percent of the FPL may receive a reduced TANF grant according to a sliding scale.

Office of the Family and Children's Ombuds.

In 1996 the Legislature established the Office of the Family and Children's Ombuds (OFCO). OFCO investigates complaints about agency actions or inactions, specifically complaints that involve a child at risk of abuse, neglect, or other harm or a child or parent involved with child protection or child welfare services. OFCO collaborates with DSHS and the Children's Administration to conduct child fatality or near-fatality reviews when the cause of the fatality is suspected to involve child abuse or neglect of a minor in the care of the DSHS or a supervising agency. The OFCO prepares an annual report regarding its work and includes recommendations.

Family Assessment Response.

In 2012 the Legislature passed legislation requiring the DSHS to implement a differential response system for responding to allegations of child abuse and neglect with low to moderate risk of child maltreatment called family assessment response (FAR). Upon receiving a report of child abuse or neglect that screens in for a response, the DSHS must either refer the case for investigation or FAR. The DSHS has a method by which to assign cases to investigation or FAR. Cases must be referred for investigation when the assessment determines that there is a risk of imminent harm to the child, a serious threat of substantial harm to the child, the conduct constitutes criminal activity, the child is abandoned, the child is dependent, or in a facility licensed by the DSHS or the Department of Early Learning. Currently, parents must sign a written agreement to participate in FAR services before services begin.

Caseload Forecast Council.

The Caseload Forecast Council (CFC) was created in 1997 to oversee the preparation of the official state caseload forecasts which include:

- the number of persons expected to meet entitlement requirements and require the services of public assistance programs, state correctional institutions, state correctional noninstitutional supervision, state institutions for juvenile offenders, the common school system, long-term care, medical assistance, foster care, and adoption support;
- the number of students who are eligible for the Washington College Bound Scholarship Program and are expected to attend an institution of higher education;
- the number of children who are eligible to participate in, and the number of children actually served by, the Early Childhood Education and Assistance Program; and
- the number of youth participating in the extended foster care program.

The CFC also prepares courtesy caseload forecasts for the TANF and Working Connections Child Care programs.

Mandatory Appointment of Counsel for Children in Some Circumstances.

The court *must* appoint an attorney for a child in a dependency proceeding six months after granting a petition to terminate the parent and child relationship when there is no remaining parent with parental rights.

Legal services provided by an attorney so appointed do not include representation of the child in any appellate proceedings related to the termination of parental rights. The court may appoint one attorney to represent a group of siblings unless there is a conflict of interest or it would be inconsistent with rules of professional conduct.

Subject to the availability of amounts appropriated for this specific purpose, the state pays the costs of attorneys appointed following termination of parental rights if the legal services are provided in accordance with standards of practice, training, and caseload limits developed and recommended by the Statewide Children's Representation Workgroup. The Office of Civil Legal Aid is responsible for implementation and administration of state moneys appropriated for appointment of attorneys.

Summary of Bill:

Foster Care Respite Care.

Subject to funding appropriated specifically for this purpose, respite care is expanded to include short-term support care provided by case aides who provide temporary assistance to foster parents as needed with the overall goal of supporting the parental efforts of the foster parents except that this assistance cannot include overnight assistance. The DSHS is required to contract with nonprofit community-based organizations (CBO) in each region to establish a statewide pool to provide this support. These individuals must be hired by the CBO and must have the appropriate training, background checks, and qualifications as determined by the DSHS. At the request of the foster parent or as offered by a CBO, short-term support care must be available to all licensed foster parents in the state as funding is available and must be phased in by geographic region. If the requests for short-term support care exceed the funding available, the CBO must have discretion to determine the assignment of case

aides. The CBO must report all short-term support care provided to the DSHS and costs associated with the case aides providing this short-term support care must not be included in the forecast. The competitive procurement process, and contract provision is expressly mandated by the Legislature.

Subject to funding appropriated specifically for this purpose, the WSIPP must prepare an outcome evaluation of this short-term support care. The evaluation will, to the maximum extent possible, assess the impact of this short-term support care service on the retention of foster homes and the number of placements a foster child receives as well as the return on investment to the state. A preliminary report is due to the appropriate committees of the Legislature and the Governor by December 1, 2018, that describes the initial implementation of these short-term support care services and the families utilizing these services. A final report must be submitted by June 30, 2020. The DSHS must provide to WSIPP, at no cost, all data necessary to discharge this duty.

Foster Care Support Services.

No later than December 31, 2017, the DSHS, in consultation with stakeholders, including child placing agencies, foster parents, foster care advocates, and biological parents, shall identify a system of support services to be provided to foster parents to assist foster parents in their efforts with foster children and a plan to implement these support services statewide, which may include contracts with CBOs. Support services are defined for this purpose to include, but are not limited to, counseling, educational assistance, and hands-on assistance for children with high-risk behaviors.

No later than January 15, 2018, the DSHS must submit a final plan, which must include estimated costs to implement these support services and recommendations for implementing these support services in a phased-in manner to the appropriate committees of the Legislature.

If House Bill 1661 is signed into law, the identification of support services and plan described above will be completed by the Office of Innovation, Alignment, and Accountability.

Foster Home Licensing.

The DSHS shall design and implement an expedited foster licensing process. The expedited foster licensing process shall be available to individuals who:

- were licensed within the last five years;
- were not the subject of an adverse licensing action or a voluntary relinquishment;
- seek licensure for the same residence that was previously licensed provided that any changes to family constellation since the previous license is limited to individuals leaving the family constellation; and
- apply to the same agency for which the individual was previously licensed, with the understanding that the agency must be agreeable to supervise the home.

The DSHS shall make every effort to ensure that individuals qualifying for and seeking an expedited license are able to become licensed within 40 days of the DSHS receiving the individual's application; although, the DSHS must only issue a foster license after receiving a completed fingerprint-based background check, and the DSHS may delay issuance of an

expedited license solely based on awaiting the results of a background check. A criminal background check will be required for all persons aged 16 and older and the DSHS may require a criminal background check for persons who are younger than 16 in situations where it may be warranted to ensure the safety of youth in foster care.

The DSHS may issue a provisional expedited license before completing a home study, but shall complete the home study as soon as possible after issuing a provision expedited license. The DSHS and its officers, agents, employees, and volunteers are not liable for injuries caused by the expedited licensing process.

Case Review Panel.

Within existing appropriation levels, the DSHS is required to establish a case review panel for the purpose of reviewing foster care cases where permanency has not been achieved within 18 months after being placed in foster care. The panel must be comprised of, at a minimum, a lead social services specialist and either the Family and Children's Ombuds or another external organization with child welfare experience.

Beginning September 1, 2018, the panel must review all foster care cases where, after the effective date of this legislation, a child reaches 15 months in foster care and has not achieved permanency. This review must occur by the child's nineteenth month in foster care. At each case review, the panel must develop a plan of action, including recommended next steps for the DSHS to take, to achieve permanency.

The DSHS is encouraged to convene the panel regularly to review other foster care cases as needed to ensure stability and permanency are achieved and the length of stay for children in foster care is reduced.

The DSHS is given the authority to purchase legal representation for parents of children who are at risk of being dependent, or who are dependent, to establish or modify a parenting plan when it is necessary for the child's safety, permanence, or well-being. This authority does not create an entitlement to legal representation purchased by the DSHS and does not create judicial authority to order DSHS to purchase legal representation.

Adoption Support Maintenance Payments.

Effective July 1, 2017, adoption support maintenance payments must be no more than the following for a child had the child remained in a foster family home during the same period:

- for a child under the age of 5, no more than 80 percent of the foster care maintenance payment;
- for a child aged 5 through 9, no more than 90 percent of the foster care maintenance payment; and
- for a child aged 10 through 18, no more than 95 percent of the foster care maintenance payment.

To encourage adoption of children between the ages of 14 and 18, and in particular those children who are hard to place for adoption, DSHS is authorized to include as part of any new negotiated agreement executed after the effective date of this legislation continued eligibility for the CBSP.

College Bound Scholarship Program.

Eligibility for the CBSP is expanded to include foster youth and individuals who were adopted between the ages of 14 and 18 with a negotiated adoption agreement who have received a high school equivalency certificate.

Foster Parent Shared Leave Pool.

The foster parent shared leave pool is created and will be administered by the DSHS, in consultation with the Office of Financial Management, to allow state employees to donate leave to be used by any state employee who is a licensed foster parent to care for or prepare to accept a foster child into their home. Participation in the pool is voluntary, any leave paid out of the pool must not exceed the level of the employee's state monthly salary, and leave under the pool may not be granted unless the pool has a sufficient balance to fund the requested shared leave.

Foster Parent Recognition.

Within existing appropriation levels, the Governor's Office must regularly acknowledge the contributions of foster parents to the state of Washington with, at a minimum, a letter signed by the Governor. The DSHS must provide to the Governor's Office all data necessary to discharge this duty.

Child Welfare System Improvement Account.

The Child Welfare System Improvement Account (CWSIA) is created in the State Treasury. Monies in the account may be spent only after appropriation and are solely for foster home licensing; achieving permanency for children; support and assistance provided to foster parents in order to improve foster home retention and stability of placements; improving and increasing placement options for youth in foster care; and preventing out-of-home placement. Revenues in CWSIA consist of legislative appropriations and any other public or private funds appropriated to or deposited in the account.

Child and Family Reinvestment Account.

The Child and Family Reinvestment Account is repealed and any residual balance of funds remaining must be transferred to the state General Fund. The sunset review of the Child and Family Reinvestment Account is also repealed.

Temporary Assistance for Needy Families.

The income eligibility rules for nonparental caregivers receiving a TANF grant on behalf of a child, other than a foster child, who is living with the caregiver are repealed effective June 30, 2018.

Family Assessment Response.

Parents are not required to sign a written agreement to participate in family assessment response services but the parents must agree to participate in services.

Caseload Forecast.

The DSHS is required, with technical consultation from the Caseload Forecast Council and associated technical workgroups, to review the forecasts of licensed foster care to ensure all youth in licensed foster care are included in the caseload forecast and that maintenance level costs associated with these youth, not including costs associated with behavioral

rehabilitation services, are accurately calculated. The DSHS is required to submit a report detailing their findings and any recommendations to the Governor and the appropriate committees of the Legislature no later than December 1, 2017.

Legal Representation for Foster Children.

Appropriates funding totaling \$1,296,000 from the State General Fund (GFS) to the Office of Civil Legal Aid (OCLA) to contract for legal representation for foster children in two counties at the initial shelter care hearing in dependency proceedings. Appropriates \$75,000 from the GFS for the OCLA to contract with the Washington State Center for Court Research for an assessment of differential outcomes in dependency proceedings prior to termination of parental rights.

Appropriation: The sum of \$1,371,000 from the General Fund to the Office of Civil Legal Aid.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 17, relating to repealing the Child and Family Reinvestment Account, which takes effect June 30, 2017; section 18, relating to transferring the balance remaining in the child and family reinvestment account to the General Fund, which takes effect July 1, 2017; and section 16, relating to the repeal of the unearned income rules for nonparental child-only recipients of Temporary Assistance for Needy Families, which take effect July 1, 2018.