

# SENATE BILL REPORT

## SB 5942

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As Reported by Senate Committee On:  
Human Services, Reentry & Rehabilitation, February 20, 2019

**Title:** An act relating to the budgeting process for core state services for children.

**Brief Description:** Concerning the budgeting process for core state services for children.

**Sponsors:** Senators Das, Lovelett, Nguyen, Hasegawa, Keiser, Kuderer and Wilson, C.; by request of Attorney General.

**Brief History:**

**Committee Activity:** Human Services, Reentry & Rehabilitation: 2/19/19, 2/20/19 [DP-WM, w/oRec, DNP].

**Brief Summary of Bill**

- Directs the Caseload Forecast Council to forecast the number of dependency and termination petitions.
- Requires expenditures for legal services for counsel for the Department of Children, Youth and Families, and legal services for counsel for parents, to prepare for and participate in all stages of foster-care related legal proceedings to be forecasted and budgeted as maintenance level costs.

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### SENATE COMMITTEE ON HUMAN SERVICES, REENTRY & REHABILITATION

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Darneille, Chair; Nguyen, Vice Chair; Walsh, Ranking Member; Cleveland and Wilson, C..

**Minority Report:** That it be referred without recommendation.

Signed by Senator Zeiger.

**Minority Report:** Do not pass.

Signed by Senator O'Ban.

**Staff:** Alison Mendiola (786-7488)

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*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.*

**Background:** Operating Budget. A two-year Biennial Operating Budget appropriates funding for operating state government and is adopted every odd-numbered year. Supplemental budgets frequently are enacted in each of the following two years after adoption of the biennial budget. Budget decisions are often categorized as being either a maintenance level or a policy level decision. For the purposes of the four-year outlook, maintenance level has been defined to mean the estimated appropriations necessary to maintain the continuing costs of program and service levels either funded in the prior biennium or otherwise mandated by other state or federal law. Maintenance level items typically include adjustments for the forecasted changes in entitlement caseloads or enrollments and other mandatory expenses.

All other budget decisions are typically categorized as policy items. Examples include creating a new program, eliminating a current program, increasing or decreasing vendor or employee payment rates, expanding or contracting program eligibility, and expanding or contracting the value of services provided by a program.

Caseload Forecast Council Forecasts and Maintenance Level Costs. The Caseload Forecast Council (CFC) is responsible for preparing and approving official state caseloads that project the populations expected to meet entitlement requirements and services. Caseloads are prepared for the following:

- public assistance programs;
- state correctional institutions;
- state correctional non-institutional supervision;
- state institutions for juvenile offenders;
- public school systems;
- long-term care;
- medical assistance;
- foster care;
- adoption support;
- the Washington College Bound Scholarship Program; and
- the number of children eligible to participate in, and number of children actually served by, the Early Childhood Education and Assistance Program.

The CFC also forecasts:

- the Temporary Assistance for Needy Families and Working Connections Child Care programs;
- the youth participating in the Extended Foster Care program separately from other children residing in foster care and who are under eighteen years of age; and
- the number of youth expected to receive behavioral rehabilitation services while involved in the foster care system and the number of screened in reports of child abuse and neglect.

Expenditures for the following foster care, adoption support and related services, and child protective services must be forecasted and budgeted as maintenance level costs:

- behavioral rehabilitation services placements;
- social workers and related staff to receive, refer, and respond to screened-in reports of child abuse or neglect;
- court-ordered parent-child and sibling visitations delivered by contractors; and

- those activities currently being treated as maintenance level costs for budgeting or forecasting purposes on June 7, 2018, including, but not limited to adoption support and other adoption-related expenses; foster care maintenance payments; child-placing agency management fees; support goods such as clothing vouchers; child aides; and child care for children in foster or relative placements when the caregiver is at work or in school.

The Department of Children, Youth, and Families. The Legislature created the Department of Children, Youth, and Families (DCYF) in 2017. The stated intent of creating this new agency is to improve the delivery of services and the outcomes for children and families by housing early learning, child welfare, and juvenile justice services in the same agency. On July 1, 2018, the Department of Early Learning was eliminated, and the functions performed by that agency were moved to DCYF. On July 1, 2018, the child welfare functions of DSHS moved to DCYF. On July 1, 2019, the juvenile justice functions of the DSHS Juvenile Rehabilitation (JR) division moved to DCYF.

Among other things, DCYF's responsibilities include:

- receiving reports of child abuse or neglect and responding to reports that screen-in for intervention;
- providing temporary out-of-home placements for children who have been removed from their homes for safety reasons; and
- supporting families who adopt children from state foster care.

Child Protective Services. Any person may call Child Protective Services (CPS) to report potential cases of child abuse or neglect. Intake CPS staff determine whether a report meets the following criteria to screen-in for child abuse or neglect:

- if the victim is under eighteen;
- if the allegation were true, would it meet the definition in the Washington Administrative Code of child abuse or neglect; and
- does the alleged subject have the role of parent or caregiver, is the alleged subject acting in loco parentis, or is the alleged subject unknown.

If the screening criteria are met, the intake workers refer the report for a CPS response. Screened-in reports are referred to one of two CPS pathways: traditional investigation; or Family Assessment Response (FAR). Both CPS pathways focus on child safety and include an intervention by a CPS worker who conducts a face-to-face visit with the child and family to assess how the family may be engaged in services and whether the child is safe in the home. Reports the intake worker determines to be higher-risk for child safety are referred for 24-hour response and traditional investigation. Reports determined by the intake worker to be low to moderate risk are referred for 72-hour response and may be referred for either an investigation or FAR.

Temporary Out-of-Home Placements. If the CPS social worker who responds to the report determines the child is unsafe in the home, the child may be removed and placed in a temporary out-of-home placement until the child can return to the home safely or be placed in another safe and permanent living arrangement. There are multiple types of temporary out-of-home placements including licensed family foster care, relative or kin placements, and behavioral rehabilitation services.

Dependency. DCYF, or anyone else, can file a court petition alleging the child should be a dependent of the state due to abuse, neglect, or because no parent, guardian, or custodian is capable of adequately caring for the child. A court will hold a shelter care hearing following removal of a child from the child's home within 72 hours. At the shelter care hearing the court examines the need for shelter care and inquires into the status of the case. If a child remains in out-of-home care there are subsequent hearings to continue to review the case and determine if the child can be safely returned home.

**Summary of Bill:** The CFC is to forecast the number of dependency and termination petitions.

Expenditures for legal services and staff for counsel for DCYF, and legal services and staff for counsel for parents, to prepare for and participate in all foster care-related legal proceeding must be forecasted and budgeted as maintenance level costs.

**Appropriation:** None.

**Fiscal Note:** Requested on February 17, 2019.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: Dependency petitions are up and the Office of the Attorney General staffs these petitions for DCYF. Half of these cases are impacted by the opioid epidemic. The current funding model for AAGs is unsustainable. Forecasting the cases and providing counsel as maintenance level costs would be helpful in both the staffing and the service that is provided to the families. Right now AAGs caseloads average 80 per attorney, which is higher than what the American Bar Association recommends. In some places there are over 100 cases per attorney.

Last year the Legislature added screened-in reports of child abuse and neglect to be forecasted. There are over 100 AAG's statewide who represent DCYF in these hearings—there are over 8000 dependency cases right now. The Council has the information they need to forecast the number of dependency petitions and terminations. Law in this area is increasingly complex with laws frequently changing and courts requiring more hearings more often. Consistent and adequate representation helps the process be more efficient. Supportive of including of parent's representation in the maintenance level. Having the costs of counsel factored into baseline budgeting would be helpful so the AG does not have to request funding every two years.

**Persons Testifying:** PRO: Senator Mona Das, Prime Sponsor; Carrie Wayno, Senior Counsel, Attorney General's Office; Edd Giger, Budget Director, Attorney General's Office; Sophia Byrd McSherry, Office of Public Defense.

**Persons Signed In To Testify But Not Testifying:** No one.