

HOUSE BILL REPORT

HB 1188

As Reported by House Committee On:
Human Services, Youth, & Early Learning
Appropriations

Title: An act relating to individuals with developmental disabilities that have also received child welfare services.

Brief Description: Concerning individuals with developmental disabilities that have also received child welfare services.

Sponsors: Representatives Senn, Taylor, Reed, Leavitt, Callan, Macri, Simmons, Timmons, Chopp, Lekanoff, Couture, Gregerson, Thai, Wylie, Stonier, Schmick, Santos, Pollet, Kloba, Eslick and Ormsby.

Brief History:

Committee Activity:

Human Services, Youth, & Early Learning: 1/17/23, 1/27/23 [DPS];

Appropriations: 2/8/23, 2/13/23 [DP2S(w/o sub HSEL)].

Brief Summary of Second Substitute Bill

- Requires that Medicaid waiver services administered by the Developmental Disabilities Administration (waiver services) are provided to eligible individuals who have received certain specified child welfare services, and that these waiver slots are forecasted and budgeted as maintenance level costs.
- Requires the Department of Social and Health Services to seek federal approval to establish a new Medicaid waiver to meet the needs of dependent children and youth with developmental disabilities.
- Requires the Caseload Forecast Council to forecast the number of individuals who are functionally and financially eligible for waiver services who have also received specified child welfare services.

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

HOUSE COMMITTEE ON HUMAN SERVICES, YOUTH, & EARLY LEARNING

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Senn, Chair; Cortes, Vice Chair; Taylor, Vice Chair; Eslick, Ranking Minority Member; Couture, Assistant Ranking Minority Member; Callan, Dent, Goodman, Ortiz-Self, Rule and Walsh.

Staff: Omeara Harrington (786-7136).

Background:

Child Welfare Services.

Anyone, including the Department of Children, Youth, and Families (DCYF), may file a petition in court alleging that a child should be a dependent of the state due to abuse, neglect, or because there is no parent, guardian, or custodian capable of adequately caring for the child. A court will hold a shelter care hearing following removal of a child from his or her home within 72 hours. At this hearing, the court will determine if the child can return home safely. If a court determines that a child is dependent, the court will conduct periodic reviews and make determinations regarding the child's placement, provision of services by the DCYF, compliance of the parents, and whether progress has been made by the parents.

Out-of-Home Care. When children are removed from the home of a parent or guardian due to allegations of abuse or neglect, those children may be placed with relatives or in foster care. Relatives care for almost half of the children placed in out-of-home care. Foster parents are licensed by either the DCYF or private child-placing agencies and provide temporary care to children with the goal of reunifying the child with his or her parent or guardian.

Extended Foster Care Program. The extended foster care program is a program that allows youth who are dependents of the state at age 18 to voluntarily agree to continue receiving foster care services until age 21, provided that they are enrolled in an educational or vocational program, participating in a program or activity to reduce barriers to employment, working 80 hours or more a month, or have certain medical conditions.

Developmental Disability Services.

The Developmental Disabilities Administration (DDA) of the Department of Social and Health Services (DSHS) assists individuals with developmental disabilities and their families to obtain services and support based on individual preferences, capabilities, and needs. While some DDA clients live in residential habilitation centers, an institutional setting, most clients live in the community.

Home and Community Based Services Medicaid waivers (waiver services) are designed to allow clients who live in community settings to receive optional services at the same level as they would receive in an institutional setting. The DDA offers services under five

waivers: Core, Basic Plus, Community Protection Program, Individual and Family Services, and Children's Intensive In-Home Behavior Supports (CIIBS). The waiver services provided to DDA clients are designed to promote everyday activities, routines, and relationships, and may include services targeted at community integration, support services provided by contracted professionals, caregiving, and equipment, supplies, and other specialized services. To be eligible for waiver services, the individual must meet certain criteria, including:

- having a qualifying disability;
- meeting the intermediate care facility requirements for individuals with an intellectual disability level of care;
- meeting financial eligibility criteria;
- choosing to receive services in the community rather than in an intermediate care facility; and
- meeting other waiver-specific criteria.

Under agency rules, children subject to dependency proceedings are not eligible for the DDA's waiver services; however, there is a statutory requirement that the DDA must give priority for waiver services to eligible individuals who exited a dependency proceeding within the last two years when there is funded capacity for those waivers.

Caseload Forecasting and Budgeting.

A biennial operating budget appropriates funding for the operation of state government and is adopted every two years. Supplemental budgets may also be enacted in the years following adoption of the biennial operating budget. Budget decisions may be categorized as either a "maintenance level" or "policy level" decision. "Maintenance level" refers to the estimated appropriations necessary to continually maintain program and service levels that were funded in the prior biennium or otherwise mandated by law. "Maintenance level" items may include adjustments for forecasted changes in entitlement caseloads or other mandatory expenses. All other budget decisions are generally categorized as "policy level" and may include decisions such as creating or eliminating programs, changing vendor or employee payment rates, or changing program eligibility.

The Caseload Forecast Council (CFC) prepares official state forecasts for entitlement programs and provides courtesy forecasts for other types of services. For instance, the CFC provides courtesy forecasts of the number of eligible individuals who have requested supported living and a service through certain DDA waivers.

Summary of Substitute Bill:

The DDA waiver services must be provided to certain eligible individuals who are or were involved in the child welfare system. Specifically, services must be provided to eligible individuals who:

- on or after January 1, 2025, are subject to a dependency proceeding, are receiving

- extended foster care services, or exited a dependency proceeding or discontinued extended foster care services; and
- will begin receiving DDA services before their twenty-fifth birthday.

The DSHS must seek federal approval to establish a new Medicaid waiver tailored to meet the needs of dependent children and youth with developmental disabilities. The new waiver will serve DDA eligible children who are age 20 or younger and are in a dependency or extended foster care. Services under the new waiver are intended to supplement, and not supplant, the child welfare services and ensures a child or youth is entitled to or receives from the DCYF or other sources. In establishing the waiver, the DSHS must collaborate with the DCYF to identify the services and supports currently provided to dependent children and youth and identify services and supports that will supplement supports already provided. The DCYF must provide to the DSHS all information and data that is necessary for the DSHS to determine eligibility, provide appropriate and timely services and supports, and maintain compliance with federal funding requirements.

The CFC must forecast the number of individuals who are or were involved in the child welfare system who are also functionally and financially eligible for DDA waiver services, as well as those who are eligible for the new DDA waiver for dependent children and youth. Waiver slots for this population must be forecasted and budgeted as maintenance level costs.

Substitute Bill Compared to Original Bill:

The entitlement to DDA services and the CFC forecasting requirements apply prospectively to children who are subject to a dependency, in extended foster care, or exit a dependency or extended foster care on or after January 1, 2025. A qualifying person must begin receiving services before their twenty-fifth birthday in order to be entitled to DDA waiver services. The definition of dependency is broadened to include children in tribal dependencies. Modifications to the CIIBS waiver are removed; instead, the DSHS must collaborate with the DCYF to seek a new Medicaid waiver to meet the needs of dependent children and youth age 20 and younger who have developmental disabilities. The effective date of the provisions outlining caseload forecasting and the entitlement to waiver services for qualifying individuals is delayed to January 1, 2025.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available. New fiscal note requested on January 27, 2023.

Effective Date of Substitute Bill: The bill contains multiple effective dates. Please see the bill.

Staff Summary of Public Testimony:

(In support) Foster youth with developmental disabilities are no less in need of DDA services than those who are not in foster care. Giving these youth interventions earlier will reduce the need for deeper end services later. When a person has developmental disabilities, habilitative care is needed. These services can be as essential as housing. There is a trend among foster care youth with complex cases that these youth will have to wait until their status changes and they are no longer in foster care to access services. The original rationale for this policy was to prevent double dipping, but these are complimentary, rather than duplicative, services. A large component of this issue is getting the DCYF to communicate with the DDA. Once a child is in the DCYF system, they are invisible to the DDA and are lost track of, and there is no incentive for the DCYF to connect the child with the DDA. There are also a lack of guardians to assist with decision making. This bill will remove the regulatory barriers currently in place that are preventing appropriate placements and supports for this population. There are numerous examples of youth who would have benefited from developmental disabilities services during foster care, but could not access those services. This leads to impacts on the mental health system, such as emergency room visits that may lead to hospital boarding. This bill would make these services an entitlement, and would require tracking of youth with developmental disabilities. This is a targeted strategy that makes communities inclusive.

(Opposed) None.

Persons Testifying: Representative Tana Senn, prime sponsor; Marissa Ingalls, Keith McNeal, and Sydney Doherty, Coordinated Care; Diana Stadden, The Arc of Washington State; Ramona Hattendorf, The Arc of King County; and Daniel Lugo, Treehouse.

Persons Signed In To Testify But Not Testifying: Katie Biron and Nicole Mazen, Amara; Debbie Roberts, Department of Social and Health Services; and Allison Krutsinger, Department of Children, Youth, and Families.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Human Services, Youth, & Early Learning. Signed by 29 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; Corry, Assistant Ranking Minority Member; Berg, Chopp, Connors, Couture, Davis, Dye, Fitzgibbon, Hansen, Harris, Lekanoff, Pollet, Rude, Ryu, Sandlin, Schmick, Senn, Simmons, Slatter, Springer, Steele, Stonier and Tharinger.

Staff: Bryan Way (786-7311).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Human Services, Youth, & Early Learning:

The Appropriations Committee recommended adding a null and void clause, making the act null and void if specific funding for the purpose of the act, referencing the act by bill or chapter number, is not provided by June 30, 2023, in the Omnibus Appropriations Act.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Second Substitute Bill: The bill contains multiple effective dates. Please see the bill. However, the bill is null and void unless funded in the budget.

Staff Summary of Public Testimony:

(In support) The Department of Children, Youth, and Families and Developmental Disabilities Administration should work together to provide foster children with the services they need. This is a smart investment of public funds and will prevent unnecessary hospitalizations and emergency hotel stays. The new waiver provides a long-term solution, but there is also a need for a short-term solution to provide immediate relief for foster children and youth. Currently, it is a state responsibility to provide developmental disability services to foster youth, and many other states are already doing so. It is important to support foster children with disabilities by providing them with the necessary services.

(Opposed) None.

Persons Testifying: Representative Tana Senn, prime sponsor; Diana Stadden, The Arc of Washington State; Daniel Lugo, Treehouse; and Bill Stauffacher, Coordinated Care.

Persons Signed In To Testify But Not Testifying: None.