

CERTIFICATION OF ENROLLMENT
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1188

68th Legislature
2023 Regular Session

Passed by the House April 17, 2023
Yeas 96 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate April 10, 2023
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1188** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1188

AS AMENDED BY THE SENATE

Passed Legislature - 2023 Regular Session

State of Washington

68th Legislature

2023 Regular Session

By House Appropriations (originally sponsored by Representatives Senn, Taylor, Reed, Leavitt, Callan, Macri, Simmons, Timmons, Chopp, Lekanoff, Couture, Gregerson, Thai, Wylie, Stonier, Schmick, Santos, Pollet, Kloba, Eslick, and Ormsby)

READ FIRST TIME 02/15/23.

1 AN ACT Relating to individuals with developmental disabilities
2 that have also received child welfare services; amending RCW
3 43.88C.010, 43.88.058, 71A.24.005, 71A.24.010, and 71A.12.370; adding
4 a new section to chapter 71A.12 RCW; and creating a new section.

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

6 **Sec. 1.** RCW 43.88C.010 and 2022 c 219 s 2 are each amended to
7 read as follows:

8 (1) The caseload forecast council is hereby created. The council
9 shall consist of two individuals appointed by the governor and four
10 individuals, one of whom is appointed by the chairperson of each of
11 the two largest political caucuses in the senate and house of
12 representatives. The chair of the council shall be selected from
13 among the four caucus appointees. The council may select such other
14 officers as the members deem necessary.

15 (2) The council shall employ a caseload forecast supervisor to
16 supervise the preparation of all caseload forecasts. As used in this
17 chapter, "supervisor" means the caseload forecast supervisor.

18 (3) Approval by an affirmative vote of at least five members of
19 the council is required for any decisions regarding employment of the
20 supervisor. Employment of the supervisor shall terminate after each
21 term of three years. At the end of the first year of each three-year

1 term the council shall consider extension of the supervisor's term by
2 one year. The council may fix the compensation of the supervisor. The
3 supervisor shall employ staff sufficient to accomplish the purposes
4 of this section.

5 (4) The caseload forecast council shall oversee the preparation
6 of and approve, by an affirmative vote of at least four members, the
7 official state caseload forecasts prepared under RCW 43.88C.020. If
8 the council is unable to approve a forecast before a date required in
9 RCW 43.88C.020, the supervisor shall submit the forecast without
10 approval and the forecast shall have the same effect as if approved
11 by the council.

12 (5) A councilmember who does not cast an affirmative vote for
13 approval of the official caseload forecast may request, and the
14 supervisor shall provide, an alternative forecast based on
15 assumptions specified by the member.

16 (6) Members of the caseload forecast council shall serve without
17 additional compensation but shall be reimbursed for travel expenses
18 in accordance with RCW 44.04.120 while attending sessions of the
19 council or on official business authorized by the council.
20 Nonlegislative members of the council shall be reimbursed for travel
21 expenses in accordance with RCW 43.03.050 and 43.03.060.

22 (7) "Caseload," as used in this chapter, means:

23 (a) The number of persons expected to meet entitlement
24 requirements and require the services of public assistance programs,
25 state correctional institutions, state correctional noninstitutional
26 supervision, state institutions for juvenile offenders, the common
27 school system, long-term care, medical assistance, foster care, and
28 adoption support;

29 (b) The number of students who are eligible for the Washington
30 college bound scholarship program and are expected to attend an
31 institution of higher education as defined in RCW 28B.92.030;

32 (c) The number of students who are eligible for the Washington
33 college grant program under RCW 28B.92.200 and 28B.92.205 and are
34 expected to attend an institution of higher education as defined in
35 RCW 28B.92.030; and

36 (d) The number of children who are eligible, as defined in RCW
37 43.216.505, to participate in, and the number of children actually
38 served by, the early childhood education and assistance program.

1 (8) The caseload forecast council shall forecast the temporary
2 assistance for needy families and the working connections child care
3 programs as a courtesy.

4 (9) By January 1, 2023, the caseload forecast council shall
5 present the number of individuals who are assessed as eligible for
6 and have requested a service through the individual and family
7 services waiver and the basic plus waiver administered by the
8 developmental disabilities administration as a courtesy. The caseload
9 forecast council shall be presented with the service request list as
10 defined in RCW 71A.10.020 to aid in development of this information.

11 (10) Beginning with the official forecast submitted in November
12 2022 and subject to the availability of amounts appropriated for this
13 specific purpose, the caseload forecast council shall forecast the
14 number of individuals who are assessed as eligible for and have
15 requested supported living services, a service through the core
16 waiver, an individual and family services waiver, and the basic plus
17 waiver administered by the developmental disabilities administration
18 as a courtesy. The caseload forecast council shall be presented with
19 the service request list as defined in RCW 71A.10.020 to aid in
20 development of this information.

21 (11) As a courtesy, beginning with the official forecast
22 submitted in November 2022, the caseload forecast council shall
23 forecast the number of individuals who are expected to reside in
24 state-operated living alternatives administered by the developmental
25 disabilities administration.

26 (12) The caseload forecast council shall forecast youth
27 participating in the extended foster care program pursuant to RCW
28 74.13.031 separately from other children who are residing in foster
29 care and who are under eighteen years of age.

30 (13) The caseload forecast council shall forecast the number of
31 youth expected to receive behavioral rehabilitation services while
32 involved in the foster care system and the number of screened in
33 reports of child abuse or neglect.

34 (14) The caseload forecast council shall forecast the number of
35 individuals who are functionally and financially eligible for
36 medicaid waiver services administered by the developmental
37 disabilities administration who also meet the criteria outlined in
38 RCW 71A.12.370 and are expected to utilize a medicaid waiver service.

39 (15) Unless the context clearly requires otherwise, the
40 definitions provided in RCW 43.88.020 apply to this chapter.

1 (~~(15)~~) (16) During the 2021-2023 fiscal biennium, and beginning
2 with the November 2021 forecast, the caseload forecast council shall
3 produce an unofficial forecast of the long-term caseload for juvenile
4 rehabilitation as a courtesy.

5 **Sec. 2.** RCW 43.88.058 and 2021 c 334 s 1904 are each amended to
6 read as follows:

7 For the purposes of this chapter, expenditures for the following
8 (~~foster care, adoption support and related services, and child~~
9 ~~protective~~) services must be forecasted and budgeted as maintenance
10 level costs:

11 (1) Behavioral rehabilitation services placements;

12 (2) Social worker and related staff to receive, refer, and
13 respond to screened-in reports of child abuse or neglect (~~(, except in~~
14 ~~fiscal year 2021))~~);

15 (3) Court-ordered parent-child and sibling visitations delivered
16 by contractors; (~~and~~)

17 (4) Those activities currently being treated as maintenance level
18 costs for budgeting or forecasting purposes on June 7, 2018,
19 including, but not limited to: (a) Adoption support and other
20 adoption-related expenses; (b) foster care maintenance payments; (c)
21 child-placing agency management fees; (d) support goods such as
22 clothing vouchers; (e) child aides; and (f) child care for children
23 in foster or relative placements when the caregiver is at work or in
24 school; and

25 (5) Developmental disability waiver slots that are anticipated to
26 be utilized by individuals eligible for a medicaid waiver service
27 under RCW 71A.12.370.

28 **Sec. 3.** RCW 71A.24.005 and 2009 c 194 s 1 are each amended to
29 read as follows:

30 (1) The legislature recognizes that the number of children who
31 have developmental disabilities along with intense behaviors is
32 increasing, and more families are seeking out-of-home placement for
33 their children.

34 (2) The legislature intends to create services and to develop
35 supports for these children, family members, and others involved in
36 the children's lives to avoid disruption to families (~~and~~
37 ~~eliminate~~), help prevent the need for out-of-home placement, and

1 supplement the child welfare services a child may be receiving from
2 the department of children, youth, and families.

3 (3) The legislature directs the department to maintain a federal
4 waiver through which services may be provided to allow children with
5 developmental disabilities and intense behaviors to maintain
6 permanent and stable familial relationships. The legislature intends
7 for these services to be locally based and offered as early as
8 possible to avoid family disruption and out-of-home placement, but
9 also offered to children in out-of-home placement when necessary.

10 **Sec. 4.** RCW 71A.24.010 and 2009 c 194 s 2 are each amended to
11 read as follows:

12 (1) To the extent funding is appropriated for this purpose,
13 intensive behavior support services may be provided by the
14 department, directly or by contract, to children who have
15 developmental disabilities and intense behaviors and to their
16 families.

17 (2) The department shall be the lead administrative agency for
18 children's intensive behavior support services and shall:

19 (a) Collaborate with appropriate parties to develop and implement
20 the intensive in-home support services program within the division of
21 developmental disabilities;

22 (b) Use best practices and evidence-based practices;

23 (c) Provide coordination and planning for the implementation and
24 expansion of intensive in-home services;

25 (d) Contract for the provision of intensive in-home and planned
26 out-of-home services;

27 (e) Monitor and evaluate services to determine whether the
28 program meets standards identified in the service contracts;

29 (f) Collect data regarding the number of families served, and
30 costs and outcomes of the program;

31 (g) Adopt appropriate rules to implement the program;

32 (h) License out-of-home respite placements on a timely basis; and

33 (i) Maintain an appropriate staff-to-client ratio.

34 (3) A child may receive intensive behavior support services when
35 the department has determined that:

36 (a) The child is under the age of twenty-one;

37 (b) The child has a developmental disability and has been
38 determined eligible for these services;

1 (c) The child/family acuity scores are high enough in the
2 assessment conducted by the division of developmental disabilities to
3 indicate the child's behavior puts the child or family at significant
4 risk or is very likely to require an out-of-home placement;

5 (d) The child meets eligibility for the home and community-based
6 care waiver;

7 (e) The child resides in his or her family home or is
8 (~~temporarily~~) in an out-of-home placement (~~with a plan to return~~
9 ~~home~~); and

10 (f) The family agrees to participate in the program and complete
11 the care and support steps outlined in the completed individual
12 support plan(~~;~~ ~~and~~

13 ~~(g) The family is not subject to an unresolved child protective~~
14 ~~services referral~~)).

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 71A.12
16 RCW to read as follows:

17 (1) No later than January 1, 2024, the department shall submit to
18 the federal government a request for approval to modify eligibility
19 requirements for the services provided through a medicaid waiver
20 administered by the department to include eligible individuals as
21 specified in RCW 71A.12.370. To the extent consistent with federal
22 law and federal funding requirements, the department shall provide
23 services to eligible individuals as specified in RCW 71A.12.370
24 through a medicaid waiver administered by the department beginning no
25 later than December 1, 2024.

26 (2)(a) The legislature recognizes that children and youth with
27 developmental disabilities who are subject to a dependency have
28 unique support needs. To this end, the legislature intends to explore
29 establishing a new medicaid waiver for this population.

30 (b) By December 1, 2025, the department shall submit a report to
31 the governor and the appropriate committees of the legislature on the
32 feasibility of establishing a new medicaid waiver tailored to meet
33 the needs of dependent children and youth with developmental
34 disabilities who are age 20 or younger and who meet the criteria
35 identified in RCW 71A.12.370(1) and cannot be adequately served
36 through one of the five medicaid waivers administered by the
37 department as of the effective date of this section. The services
38 provided in this waiver shall supplement, and not supplant, the child
39 welfare services and supports a child or youth is entitled to or

1 receives under Title IV-E of the social security act from the
2 department of children, youth, and families, and may not duplicate
3 services or supports available through other funding sources. The
4 report must include:

5 (i) A comprehensive list and description of the services
6 anticipated to be included in the new waiver and the associated costs
7 by each age group;

8 (ii) Information on approaches taken by other states to serve
9 children and youth in dependencies with developmental disabilities;
10 and

11 (iii) Information on the outcome of services being provided under
12 the amended waivers referenced in subsection (1) of this section.

13 (3) The department shall be the lead administrative agency for
14 the waiver design for dependent children and youth and shall
15 collaborate with the department of children, youth, and families and
16 other relevant stakeholders to identify the services and supports
17 currently provided to dependent children and youth and identify
18 services and supports that will supplement supports already provided.
19 The department of children, youth, and families shall provide to the
20 department all information and data that is necessary for the
21 department to determine eligibility for services, to provide
22 appropriate and timely services and supports to qualifying children
23 and youth, to implement and maintain compliance with federal funding
24 requirements, and to complete design of the new waiver.

25 **Sec. 6.** RCW 71A.12.370 and 2021 c 56 s 4 are each amended to
26 read as follows:

27 (~~When there is funded capacity for services~~) (1) Services
28 provided through a medicaid waiver administered by the department,
29 (~~and~~) to the extent consistent with federal law and federal funding
30 requirements, (~~priority for that waiver~~) shall be provided to
31 eligible individuals who (~~exited~~) meet the following criteria on or
32 after the effective date of this section:

33 (a) (i) Are subject to a dependency;

34 (ii) Are receiving extended foster care services as defined in
35 RCW 74.13.020; or

36 (iii) Exited a dependency (~~proceeding under chapter 13.34 RCW~~
37 within the last two years)) or discontinued extended foster care
38 services as defined in RCW 74.13.020; and

1 (b) Will begin receiving waiver services prior to the
2 individual's 25th birthday.

3 (2) Persons meeting the criteria in subsection (1) of this
4 section who are receiving services under the children's intensive
5 behavioral support services waiver under RCW 71A.24.010 must be
6 immediately transferred to a different waiver without a break in
7 waiver coverage when, based on their age, they no longer qualify for
8 the waiver under which they have been receiving services.

9 (3) For purposes of this section, a "dependency" includes both a
10 dependency under chapter 13.34 RCW and circumstances in which an
11 Indian child is in the custody of a federally recognized Indian tribe
12 as defined in RCW 43.376.010 or the tribe's placing agency.

13 NEW SECTION. Sec. 7. If specific funding for the purposes of
14 this act, referencing this act by bill or chapter number, is not
15 provided by June 30, 2023, in the omnibus appropriations act, this
16 act is null and void.

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