

CERTIFICATION OF ENROLLMENT

**ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1188**

Chapter 345, Laws of 2023

68th Legislature  
2023 Regular Session

CHILDREN WITH DEVELOPMENTAL DISABILITIES AND RECEIVING CHILD WELFARE  
SERVICES

EFFECTIVE DATE: July 23, 2023

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

LAURIE JINKINS

**Speaker of the House of  
Representatives**

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

DENNY HECK

**President of the Senate**

Approved May 9, 2023 10:42 AM

JAY INSLEE

**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.

BERNARD DEAN

**Chief Clerk**

FILED

May 10, 2023

**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.

Passed by the House April 17, 2023.  
Passed by the Senate April 10, 2023.  
Approved by the Governor May 9, 2023.  
Filed in Office of Secretary of State May 10, 2023.

--- END ---