

**E2SHB 2264** - S COMM AMD

By Committee on Human Services & Corrections

NOT ADOPTED 03/01/2012

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that:

4 (a) The state of Washington and several Indian tribes in the state  
5 of Washington assume legal responsibility for abused or neglected  
6 children when their parents or caregivers are unable or unwilling to  
7 adequately provide for their safety, health, and welfare;

8 (b) Washington state has a strong history of partnership between  
9 the department of social and health services and contracted service  
10 providers who currently serve children and families in the child  
11 welfare system. The department and its contracted service providers  
12 have responsibility for providing services to address parenting  
13 deficiencies resulting in child maltreatment, and the needs of children  
14 impacted by maltreatment;

15 (c) Department caseworkers and contracted service providers each  
16 play a critical and complementary role in the child welfare system. A  
17 2007 Washington state children's administration workload study found  
18 significant gaps in the number of case-carrying social workers relative  
19 to the demands of their workload;

20 (d) The current system of contracting for services needed by  
21 children and families in the child welfare system is fragmented,  
22 inflexible, and lacks incentives for improving outcomes for children  
23 and families.

24 (2) The legislature intends:

25 (a) To reform the delivery of certain services to children and  
26 families in the child welfare system by creating a flexible,  
27 accountable community-based system of care that utilizes  
28 performance-based contracting, maximizes the use of evidence-based,  
29 research-based, and promising practices, and expands the capacity of

1 community-based agencies to leverage local funding and other resources  
2 to benefit children and families served by the department;

3 (b) To phase in implementation of performance-based contracting in  
4 order to develop the contracting experience and other capacity  
5 necessary for statewide implementation;

6 (c) To achieve improved child safety, child permanency, including  
7 reunification, and child well-being outcomes through the collaborative  
8 efforts of the department and contracted service providers and the  
9 prioritization of these goals in performance-based contracting; and

10 (d) To implement performance-based contracting under this act in a  
11 manner that supports and complies with the federal and Washington state  
12 Indian child welfare act.

13 NEW SECTION. **Sec. 2.** For purposes of this chapter:

14 (1) "Case management" means convening family meetings, developing,  
15 revising, and monitoring implementation of any case plan or individual  
16 service and safety plan, coordinating and monitoring services needed by  
17 the child and family, caseworker-child visits, family visits, and the  
18 assumption of court-related duties, excluding legal representation,  
19 including preparing court reports, attending judicial hearings and  
20 permanency hearings, and ensuring that the child is progressing toward  
21 permanency within state and federal mandates, including the Indian  
22 child welfare act.

23 (2) "Child" means:

24 (a) A person less than eighteen years of age; or

25 (b) A person age eighteen to twenty-one years who is eligible to  
26 receive the extended foster care services authorized under RCW  
27 74.13.031.

28 (3) "Child-placing agency" has the same meaning as in RCW  
29 74.15.020.

30 (4) "Child welfare services" means social services including  
31 voluntary and in-home services, out-of-home care, case management, and  
32 adoption services which strengthen, supplement, or substitute for,  
33 parental care and supervision for the purpose of:

34 (a) Preventing or remedying, or assisting in the solution of  
35 problems which may result in families in conflict, or the neglect,  
36 abuse, exploitation, or criminal behavior of children;

1 (b) Protecting and caring for dependent, abused, or neglected  
2 children;

3 (c) Assisting children who are in conflict with their parents, and  
4 assisting parents who are in conflict with their children, with  
5 services designed to resolve such conflicts;

6 (d) Protecting and promoting the welfare of children, including the  
7 strengthening of their own homes where possible, or, where needed;

8 (e) Providing adequate care of children away from their homes in  
9 foster family homes or day care or other child care agencies or  
10 facilities.

11 (5) "Department" means the department of social and health  
12 services.

13 (6) "Evidence-based" means a program or practice that is cost-  
14 effective and includes at least two randomized or statistically  
15 controlled evaluations that have demonstrated improved outcomes for its  
16 intended population.

17 (7) "Network administrator" means an entity that contracts with the  
18 department to provide defined services to children and families in the  
19 child welfare system through its provider network, as provided in  
20 section 3 of this act.

21 (8) "Performance-based contracting" means structuring all aspects  
22 of the procurement of services around the purpose of the work to be  
23 performed and the desired results with the contract requirements set  
24 forth in clear, specific, and objective terms with measurable outcomes  
25 and linking payment for services to contractor performance.

26 (9) "Promising practice" means a practice that presents, based upon  
27 preliminary information, potential for becoming a research-based or  
28 consensus-based practice.

29 (10) "Provider network" means those service providers who contract  
30 with a network administrator to provide services to children and  
31 families in the geographic area served by the network administrator.

32 (11) "Research-based" means a program or practice that has some  
33 research demonstrating effectiveness, but that does not yet meet the  
34 standard of evidence-based practices.

35 NEW SECTION. **Sec. 3.** (1) No later than December 1, 2013, the  
36 department shall enter into performance-based contracts for the

1 provision of family support and related services. The department may  
2 enter into performance-based contracts for additional services, other  
3 than case management, in future procurements.

4 (2) Beginning December 1, 2013, the department may not renew its  
5 current contracts with individuals or entities for the provision of the  
6 child welfare services included in performance-based contracts under  
7 this section for services in geographic areas served by network  
8 administrators under such contracts, except as mutually agreed upon  
9 between the department and the network administrator to allow for the  
10 successful transition of services that meet the needs of children and  
11 families.

12 (3) The department shall conduct a procurement process to enter  
13 into performance-based contracts with one or more network  
14 administrators for family support and related services. As part of the  
15 procurement process, the department shall consult with department  
16 caseworkers, the exclusive bargaining representative for employees of  
17 the department, tribal representatives, parents who were formerly  
18 involved in the child welfare system, youth currently or previously in  
19 foster care, child welfare services researchers, and the Washington  
20 state institute for public policy to assist in identifying the array of  
21 family support and related services that will be included in the  
22 procurement. In identifying services, the department must review  
23 current data and research related to the effectiveness of family  
24 support and related services, and prioritize those services that are  
25 most critical to the mitigation of child safety concerns and are  
26 evidence-based or research-based. Expenditures for family support and  
27 related services purchased under this section must remain within the  
28 levels appropriated in the operating budget.

29 (4)(a) Network administrators shall, directly or through  
30 subcontracts with service providers:

31 (i) Assist caseworkers in meeting their responsibility for  
32 implementation of case plans and individual service and safety plans;  
33 and

34 (ii) Provide the family support and related services included in a  
35 child or family's case plan or individual service and safety plan  
36 within funds available under contract.

37 (b) While the department caseworker retains responsibility for case  
38 management, nothing in this act limits the ability of the department to

1 continue to contract for the provision of case management services by  
2 child-placing agencies, behavioral rehabilitation services agencies, or  
3 other entities that provided case management under contract with the  
4 department prior to July 1, 2005.

5 (5) In conducting the procurement, the department shall actively  
6 consult with other state agencies with relevant expertise, such as the  
7 health care authority, and with philanthropic entities with expertise  
8 in performance-based contracting for child welfare services. The  
9 director of the office of financial management must approve the request  
10 for proposal prior to its issuance.

11 (6) The procurement process must be developed and implemented in a  
12 manner that complies with applicable provisions of intergovernmental  
13 agreements between the state of Washington and tribal governments and  
14 must provide an opportunity for tribal governments to contract for  
15 service delivery through network administrators.

16 (7) The procurement and resulting contracts must include, but are  
17 not limited to, the following standards and requirements:

18 (a) The use of family engagement approaches to successfully  
19 motivate families to engage in services and training of the network's  
20 contracted providers to apply such approaches;

21 (b) The use of parents and youth who are successful veterans of the  
22 child welfare system to act as mentors through activities that include,  
23 but are not limited to, helping families navigate the system,  
24 facilitating parent engagement, and minimizing distrust of the child  
25 welfare system;

26 (c) The establishment of qualifications for service providers  
27 participating in provider networks, such as appropriate licensure or  
28 certification, education, and accreditation by professional accrediting  
29 entities;

30 (d) Adequate provider capacity to meet the anticipated service  
31 needs in the network administrator's contracted service area. The  
32 network administrator must be able to demonstrate that its provider  
33 network is culturally competent and has adequate capacity to address  
34 disproportionality, including utilization of tribal and other ethnic  
35 providers capable of serving children and families of color or who need  
36 language-appropriate services;

37 (e) Fiscal solvency of network administrators and providers  
38 participating in the network;

1 (f) The use of evidence-based, research-based, and promising  
2 practices, where appropriate, including fidelity and quality assurance  
3 provisions;

4 (g) Network administrator quality assurance activities, including  
5 monitoring of the performance of providers in their provider network,  
6 with respect to meeting measurable service outcomes;

7 (h) Network administrator data reporting, including data on  
8 contracted provider performance and service outcomes; and

9 (i) Network administrator compliance with applicable provisions of  
10 intergovernmental agreements between the state of Washington and tribal  
11 governments and the federal and Washington state Indian child welfare  
12 act.

13 (8) Performance-based payment methodologies must be used in network  
14 administrator contracting. Performance measures should relate to  
15 successful engagement by a child or parent in services included in  
16 their case plan, and resulting improvement in identified problem  
17 behaviors and interactions. For the initial three-year period of  
18 implementation of performance-based contracting, the department may  
19 transfer financial risk for the provision of services to network  
20 administrators only to the limited extent necessary to implement a  
21 performance-based payment methodology, such as phased payment for  
22 services. However, the department may develop a shared savings  
23 methodology through which the network administrator will receive a  
24 defined share of any savings that result from improved performance. If  
25 the department receives a Title IV-E waiver, the shared savings  
26 methodology must be consistent with the terms of the waiver. If a  
27 shared savings methodology is adopted, the network administrator shall  
28 reinvest the savings in enhanced services to better meet the needs of  
29 the families and children they serve.

30 (9) The department must actively monitor network administrator  
31 compliance with the terms of contracts executed under this section.

32 (10) The use of performance-based contracts under this section must  
33 be done in a manner that does not adversely affect the state's ability  
34 to continue to obtain federal funding for child welfare-related  
35 functions currently performed by the state and with consideration of  
36 options to further maximize federal funding opportunities and increase  
37 flexibility in the use of such funds, including use for preventive and  
38 in-home child welfare services.

1        NEW SECTION.    **Sec. 4.**    (1) For those services included in contracts  
2 under section 3 of this act, the service providers must be chosen by  
3 the department caseworker from among those in the network  
4 administrator's provider network. The criteria for provider selection  
5 must include the geographic proximity of the provider to the child or  
6 family, and the performance of the provider based upon data collected  
7 and provided by the network administrator. If a reasonably qualified  
8 provider is not available through the network administrator's provider  
9 network, at the request of a department caseworker, a provider who is  
10 not currently under contract with the network administrator may be  
11 offered a provisional contract by the network administrator, pending  
12 that provider demonstrating that he or she meets applicable provider  
13 qualifications to participate in the administrator's provider network.

14        (2) The department shall develop a dispute resolution process to be  
15 used when the network administrator disagrees with the department  
16 caseworker's choice of a service provider due to factors such as the  
17 service provider's performance history or ability to serve culturally  
18 diverse families. The mediator or decision maker must be a neutral  
19 employee of the department who has not been previously involved in the  
20 case. The dispute resolution process must not result in a delay of  
21 more than two business days in the receipt of needed services by the  
22 child or family.

23        (3) The department and network administrator shall collaborate to  
24 identify and respond to patterns or trends in service utilization that  
25 may indicate overutilization or underutilization of family support and  
26 related services, or may indicate a need to enhance service capacity.

27        NEW SECTION.    **Sec. 5.**    (1) On an annual basis, beginning in the  
28 2015-2017 biennium, the department and contracted network  
29 administrators shall:

30        (a) Review and update the services offered through performance-  
31 based contracts in response to service outcome data for currently  
32 contracted services and any research that has identified new evidence-  
33 based or research-based services not included in a previous  
34 procurement; and

35        (b) Review service utilization and outcome data to determine  
36 whether changes are needed in procurement policies or performance-based

1 contracts to better meet the goals established in section 1 of this  
2 act.

3 (2) In conducting the review under subsection (1) of this section,  
4 the department must consult with department caseworkers, the exclusive  
5 bargaining representative for employees of the department, tribal  
6 representatives, parents who were formerly involved in the child  
7 welfare system, youth currently or previously in foster care, child  
8 welfare services researchers, representatives of child welfare service  
9 providers, and the Washington state institute for public policy.

10 NEW SECTION. **Sec. 6.** (1) To achieve the service delivery  
11 improvements and efficiencies intended in sections 1, 3, 4, and 7 of  
12 this act and in RCW 74.13.370, and pursuant to RCW 41.06.142(3),  
13 contracting with network administrators to provide services needed by  
14 children and families in the child welfare system, pursuant to  
15 sections 3 and 4 of this act, and execution and monitoring of  
16 individual provider contracts, pursuant to section 3 of this act, are  
17 expressly mandated by the legislature and are not subject to the  
18 processes set forth in RCW 41.06.142 (1), (4), and (5).

19 (2) The express mandate in subsection (1) of this section is  
20 limited to those services and activities provided in sections 3 and 4  
21 of this act. If the department includes services customarily and  
22 historically performed by department employees in the classified  
23 service in a procurement for network administrators that exceeds the  
24 scope of services or activities provided in sections 3 and 4 of this  
25 act, such contracting is not specifically mandated and will be subject  
26 to all applicable contractual and legal obligations.

27 NEW SECTION. **Sec. 7.** For the purposes of the provision of child  
28 welfare services by provider networks, when all other elements of the  
29 responses to any procurement under section 3 of this act are equal,  
30 private nonprofit entities, federally recognized Indian tribes located  
31 in this state, and state employees must receive primary preference over  
32 private for-profit entities.

33 **Sec. 8.** RCW 74.13.360 and 2010 c 291 s 4 are each amended to read  
34 as follows:

35 (1) (~~No later than July 1, 2011, the department shall convert its~~



1 ~~current contracts with providers of child welfare services into~~  
2 ~~performance based contracts. In accomplishing this conversion, the~~  
3 ~~department shall decrease the total number of contracts it uses to~~  
4 ~~purchase child welfare services from providers. The conversion of~~  
5 ~~contracts for the provision of child welfare services to performance-~~  
6 ~~based contracts must be done in a manner that does not adversely affect~~  
7 ~~the state's ability to continue to obtain federal funding for child~~  
8 ~~welfare related functions currently performed by the state and with~~  
9 ~~consideration of options to further maximize federal funding~~  
10 ~~opportunities and increase flexibility in the use of such funds,~~  
11 ~~including use for preventive and in home child welfare services.~~

12 ~~(2))~~ No later than December 30, ~~((2012))~~ 2015:

13 (a) In the demonstration sites selected under RCW 74.13.368(4)(a),  
14 child welfare services shall be provided by supervising agencies with  
15 whom the department has entered into performance-based contracts.  
16 Supervising agencies may enter into subcontracts with other licensed  
17 agencies; and

18 (b) Except as provided in subsection ~~((4))~~ (3) of this section,  
19 and notwithstanding any law to the contrary, the department may not  
20 directly provide child welfare services to families and children  
21 provided child welfare services by supervising agencies in the  
22 demonstration sites selected under RCW 74.13.368(4)(a).

23 ~~((3))~~ (2) No later than December 30, ~~((2012))~~ 2015, for families  
24 and children provided child welfare services by supervising agencies in  
25 the demonstration sites selected under RCW 74.13.368(4)(a), the  
26 department is responsible for only the following:

27 (a) Monitoring the quality of services for which the department  
28 contracts under this chapter;

29 (b) Ensuring that the services are provided in accordance with  
30 federal law and the laws of this state, including the Indian child  
31 welfare act;

32 (c) Providing child protection functions and services, including  
33 intake and investigation of allegations of child abuse or neglect,  
34 emergency shelter care functions under RCW 13.34.050, and referrals to  
35 appropriate providers; and

36 (d) Issuing licenses pursuant to chapter 74.15 RCW.

37 ~~((4))~~ (3) No later than December 30, ~~((2012))~~ 2015, for families

1 and children provided child welfare services by supervising agencies in  
2 the demonstration sites selected under RCW 74.13.368(4)(a), the  
3 department may provide child welfare services only:

4 (a) For the limited purpose of establishing a control or comparison  
5 group as deemed necessary by the child welfare transformation design  
6 committee, with input from the Washington state institute for public  
7 policy, to implement the demonstration sites selected and defined  
8 pursuant to RCW 74.13.368(4)(a) in which the performance in achieving  
9 measurable outcomes will be compared and evaluated pursuant to RCW  
10 74.13.370; or

11 (b) In an emergency or as a provider of last resort. The  
12 department shall adopt rules describing the circumstances under which  
13 the department may provide those services. For purposes of this  
14 section, "provider of last resort" means the department is unable to  
15 contract with a private agency to provide child welfare services in a  
16 particular geographic area or, after entering into a contract with a  
17 private agency, either the contractor or the department terminates the  
18 contract.

19 ~~((+5))~~ (4) For purposes of this chapter, on and after September 1,  
20 2010, performance-based contracts shall be structured to hold the  
21 supervising agencies accountable for achieving the following goals in  
22 order of importance: Child safety; child permanency, including  
23 reunification; and child well-being.

24 ~~((+6))~~ (5) A federally recognized tribe located in this state may  
25 enter into a performance-based contract with the department to provide  
26 child welfare services to Indian children whether or not they reside on  
27 a reservation. Nothing in this section prohibits a federally  
28 recognized Indian tribe located in this state from providing child  
29 welfare services to its members or other Indian children pursuant to  
30 existing tribal law, regulation, or custom, or from directly entering  
31 into agreements for the provision of such services with the department,  
32 if the department continues to otherwise provide such services, or with  
33 federal agencies.

34 **Sec. 9.** RCW 74.13.370 and 2009 c 520 s 9 are each amended to read  
35 as follows:

36 (1) ~~((Based upon the recommendations of the child welfare  
37 transformation design committee, including the two sets of outcomes~~

1 developed by the committee under RCW 74.13.368(4)(b), the Washington  
2 state institute for public policy is to conduct a review of measurable  
3 effects achieved by the supervising agencies and compare those  
4 measurable effects with the existing services offered by the state.  
5 The report on the measurable effects shall be provided to the governor  
6 and the legislature no later than April 1, 2015.

7 ~~(2))~~ No later than ~~((June 30, 2011))~~ December 1, 2014, the  
8 Washington state institute for public policy shall provide the  
9 legislature and the governor an initial report on the department's  
10 conversion to the use of performance-based contracts as provided in  
11 ~~((RCW 74.13.360(1))~~ sections 3 and 4 of this act. No later than June  
12 30, ~~((2012))~~ 2016, the Washington state institute for public policy  
13 shall provide the governor and the legislature with a second report on  
14 the ~~((department's conversion of its contracts to performance-based~~  
15 ~~contracts))~~ extent to which the use of performance-based contracting  
16 has resulted in:

17 (a) Increased use of evidence-based, research-based, and promising  
18 practices; and

19 (b) Improvements in outcomes for children, including child safety,  
20 child permanency, including reunification, and child well-being.

21 ~~((+3))~~ (2) The department and network administrators shall respond  
22 to the Washington institute for public policy's request for data and  
23 other information with which to complete these reports in a timely  
24 manner.

25 (3) The Washington state institute for public policy must consult  
26 with a university-based child welfare research entity to evaluate  
27 performance-based contracting.

28 NEW SECTION. Sec. 10. RCW 74.13.362 (Performance-based  
29 contracts--Legislative mandate) and 2009 c 520 s 4 are each repealed.

30 NEW SECTION. Sec. 11. Sections 1 through 7 of this act constitute  
31 a new chapter in Title 74 RCW."

**E2SHB 2264** - S COMM AMD

By Committee on Human Services & Corrections

**NOT ADOPTED 03/01/2012**

1        On page 1, line 2 of the title, after "system;" strike the  
2 remainder of the title and insert "amending RCW 74.13.360 and  
3 74.13.370; adding a new chapter to Title 74 RCW; and repealing RCW  
4 74.13.362."

--- END ---