

HOUSE BILL REPORT

HB 2536

As Reported by House Committee On:
Early Learning & Human Services
Ways & Means

Title: An act relating to the use of evidence-based practices for the delivery of services to children and juveniles.

Brief Description: Concerning the use of evidence-based practices for the delivery of services to children and juveniles.

Sponsors: Representatives Dickerson, Johnson, Goodman, Hinkle, Kretz, Pettigrew, Warnick, Cody, Harris, Kenney, Kagi, Darneille, Orwall, Condotta, Ladenburg, Appleton, Jinkins and Maxwell.

Brief History:

Committee Activity:

Early Learning & Human Services: 1/24/12, 1/27/12, 1/31/12 [DPS];
Ways & Means: 2/4/12, 2/7/12 [DP2S(w/o sub ELHS)].

Brief Summary of Second Substitute Bill

- Requires the agencies that deliver prevention and intervention services for children's mental health, child welfare, and juvenile justice meet graduated requirements for increasing the level of evidence-based or research based programs or services provided.
- Requires agencies covered under the act to report to the Legislature if they are unable to meet the requirements of the act.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Kagi, Chair; Roberts, Vice Chair; Dickerson, Goodman, Johnson and Orwall.

Minority Report: Do not pass. Signed by 3 members: Representatives Walsh, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Overstreet.

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.

Staff: Linda Merelle (786-7092).

Background:

Evidence-Based Practices.

Evidence-based practices are generally defined as those programs or policies that are supported by a rigorous outcome evaluation clearly demonstrating effectiveness. Since the mid-1990s, the Washington State Institute for Public Policy (WSIPP), the research arm of the Legislature, has undertaken comprehensive reviews of evidence-based programs. It has examined programs and policies in the juvenile and adult criminal justice arenas, as well as in other public policy areas, including early childhood education, child welfare, children's and adult mental health, and substance abuse. A "research-based" practice has some research demonstrating effectiveness, but it does not yet meet the standard of an evidence-based practice. A "promising practice" or "emerging best practice" does not meet evidence-based standards but presents potential for becoming a research-based practice.

In 2007 the Legislature established the University of Washington Evidence Based Practice Institute (EBPI) which collaborates with the WSIPP and other entities to improve the implementation of evidence-based and research-based practices by providing training and consultation to mental health providers and agencies that serve the needs of children. The EBPI also provides oversight of implementation of evidence-based practices to ensure fidelity to program models.

Summary of Substitute Bill:

The Juvenile Rehabilitation Administration, the Children's Administration, and agencies that administer funds related to children's mental health services must expend state funds on programs and services that are evidence-based, as identified by the WSIPP and a university-based evidence-based entity in Washington. The Children's Administration may also expend funds on research-based practices. The requirements for these expenditures are imposed incrementally.

Under this act, an "evidence-based" program or practice is defined as one that is cost-effective and includes at least two randomized or statistically controlled evaluations that have demonstrated improved outcomes for the intended population.

"Preventive and Treatment Services" are defined as services and programs for children and youth and their families that are specifically directed to address behaviors and circumstances that have resulted or may result in truancy, abuse or neglect, out-of-home placements, chemical dependency, substance abuse, sexual aggressiveness, or mental or emotional disorders.

In consultation with the EBPI, the Juvenile Rehabilitation Administration and the agencies that provide children's health must initiate or continue their review of sound promising and research-based practices with the goal of identifying and expanding the number of evidence-

based practices that are cost-beneficial and effective. The Children's Administration must initiate or continue their review of sound promising and research-based practices in consultation with a university-based evidence-based entity in Washington.

Use of Funds.

For the Juvenile Rehabilitation Administration and agencies that provide children's mental health services, the determination of the amount of funds expended on evidence-based programs includes program costs necessary to directly implement evidence-based programs, including discrete staffing and training costs which would not have been incurred but for the implementation of an evidence-based program. Funds expended for indirect administrative costs may not be included. The Children's Administration may include funds expended on both research-based and evidence-based practices in their determination of amounts expended.

In collaboration with the Evidence-Based Practice Council, the Department of Social and Health Services (DSHS) must redirect existing funding resources, as necessary, to coordinate the purchase of evidence-based services and the development of a workforce that is trained to implement those practices.

Juvenile Rehabilitation Administration.

The percentage of funds expended on evidence-based programs that reduce criminal recidivism of the participants must be:

- no less than 60 percent in fiscal years 2014 and 2015;
- no less than 65 percent in fiscal years 2016 and 2017; and
- no less than 75 percent in fiscal years 2018 and 2019.

Children's Mental Health Services.

The percentage of funds expended on evidence-based programs that improve mental health outcomes for the participants must be:

- no less than 50 percent in fiscal years 2014 and 2015;
- no less than 65 percent in fiscal years 2016 and 2017; and
- no less than 75 percent in fiscal years 2018 and 2019.

Children's Administration.

The percentage of funds expended for child welfare services that reduce abuse and neglect, safely reduce the rates of out-of-home placement, decrease the length of time required to provide permanency for children in out-of-home care, or improve child well-being for participants must be:

- no less than 35 percent in fiscal years 2014 and 2015;
- no less than 50 percent in fiscal years 2016 and 2017; and
- no less than 75 percent in fiscal years 2018 and 2019.

Evidence-Based Practice Council.

The DSHS must establish an Evidence-Based Practice Council (Council) to develop a unified and accountable system of care for the coordination and the delivery of prevention and treatment services to children, youth, and their families. The Council must act as a central mechanism for implementing evidence-based prevention and treatment programs and providing wraparound care coordination and peer support. The members of the Council must include representatives from the following:

- child advocacy organizations;
- tribal authorities;
- the Division of Behavior Health and Recovery Services;
- the Children's Administration;
- the Juvenile Rehabilitation Administration;
- the Division of Developmental Disabilities;
- the Health Care Authority;
- the Office of the Superintendent of Public Instruction;
- family and youth support organizations;
- regional support networks;
- state and local provider organizations;
- the EBPI; and
- the WSIPP.

Reports.

Department of Social and Health Services.

The DSHS must track and document its compliance with the requirements of this act. It must also report annually to the Legislature regarding its progress in the coordination of the purchase of evidence-based services and the development of a trained workforce to implement those services. A preliminary report is due by December 31, 2012. A subsequent report is due December 31, 2013, and reports are due annually, thereafter.

Other Entities.

The WSIPP, in consultation with a university-based evidence-based entity and with any necessary assistance from the DSHS, must report to the Legislature. The reports must include:

- an assessment of the amount of funds expended on evidence-based services;
- an assessment of program fidelity to evidence-based models;
- an assessment of outcomes for children and youth who receive evidence-based services; and
- a description of the method of the DSHS's documentation of its compliance with the requirements of the act.

The first report is due no later than July 1, 2013. A second report is due July 1, 2015, and a final report is due December 1, 2019.

Substitute Bill Compared to Original Bill:

The substitute bill includes a definition for "prevention and treatment services." The evidence-based practices for which funds are expended are those identified by the WSIPP, in consultation with a university-based evidence-based practice entity. The Children's Administration may also expend funds on research-based practices.

The Juvenile Rehabilitation Administration and agencies that provide children's mental health services must, in consultation with WSIPP and the EBTI, initiate or continue to review promising and research-based practices with the goal of expanding the number of evidence-based practices available. The Children's Administration must consult with the WSIPP and a university-based evidence-based practice entity to initiate or continue its review of promising and research-based practices.

The Juvenile Rehabilitation Administration has six years to reach the graduated requirements for expenditures for evidence-based practices. In fiscal years 2014 and 2015, no less than 60 percent of its expenditures for treatment must be for evidence-based programs; in 2016 and 2017, no less than 65 percent; and in 2018 and 2019, no less than 75 percent.

In determination of the amount of funds expended as required by this act, the Children's Administration may include funds expended on both evidence-based and research-based practices. Collaboration with the EBPI is not required by any of the agencies in implementing evidence-based practices.

The DSHS must establish an Evidence-Based Practice Council instead of a State Interagency System of Care Team. The Council is governed by an executive committee whose members shall be the Secretary of DSHS, the WSIPP, and the EBPI. The members of the Council are representatives from the same entities that would have comprised the State Interagency System of Care Team. With the Council, the DSHS must develop a unified and accountable system of care for the coordination and delivery of prevention and treatment services.

In addition, the Council must:

- act as a central mechanism for implementing evidence-based prevention and treatment programs and providing wraparound support;
- ensure that the services through evidence-based treatment programs are delivered with fidelity; and
- acknowledge the system of quality control already in place for the juvenile justice system and work within that system to meet the graduated requirements of the act.

In collaboration with the Council, instead of with the WSIPP and the EBPI, the DSHS must redirect existing funding resources to coordinate the purchase of evidence-based practices and the development of a workforce trained to implement those practices.

The reports required by the WSIPP must be prepared in consultation with a university-based evidence-based practice entity, instead of the EBPI.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill represents reform in the way that treatment services are provided to children through the Department of Social and Health Services. It is about accountability to the Legislature, tax payers, and the children who receive the services. Even though much is known about effective practices, little is done to implement those practices. In the last 15 to 20 years, it has been clear that some practices work better than others. There is an opportunity to maintain children in their homes and to train professionals. This will increase the opportunity for children to be successful, to provide accountability for the state, and to make a great leap forward. In the past four years, there has been a systematic effort to increase the opportunity to address the mental health needs of youth. One of the strategies that this bill utilizes is more coordination. Under the bill, the strategy is for the agencies to combine and increase their ability to purchase services. With the outcomes from the use of evidence-based practices, the result will be a significant benefit to the tax payer.

(In support with concerns) The training and fidelity requirements of the bill will require additional expenditures,

(Neutral) It is not clear which services are subject to the requirements of the bill. It is important to make sure that the requirements under this bill do not decrease the number of children and families served. The roles of the WSIPP and the EBPI need to be clarified. Definitions for research-based and promising practices should be added to the bill.

(With concerns) The current structure used by juvenile courts in Washington is nationally recognized, and it has a quality assurance component. Evidence-based practices do not stand alone. A risk assessment is done to determine whether a youth is eligible for services, and there must be qualified persons to deliver those services. Fewer than one-half of juveniles receive evidence-based services, and there are not enough evidence-based practices to cover all children. Many evidence-based practices are not covered by Medicaid. It is not clear how the required evidence-based practices will be funded.

(Opposed) None.

Persons Testifying: (In support) Representative Dickerson, prime sponsor; and Dr. Eric Trupin, University of Washington School of Social Work Evidence Based Practice Institute.

(In support with concerns) Brian Carroll, Washington Coalition for Children in Care.

(Neutral) Roxanne Lieb, Washington State Institute of Public Policy; and Dana Phelps, Department of Social and Health Services.

(With concerns) Yoshe Revelle; Tom McBride and Shelly Maluo, Washington Juvenile Court Administrators; Rashi Gupta, Washington State Association of Counties; and Gregory Robinson, Washington Community Health Council.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON WAYS & MEANS

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 Early Learning & Human Services. Signed by 27 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Dickerson, Haigh, Haler, Hinkle, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Ross, Schmick, Seaquist, Springer, Sullivan and Wilcox.

Staff: Andy Toulon (786-7178).

Summary of Recommendation of Committee On Ways & Means Compared to Recommendation of Committee On Early Learning & Human Services:

Evidence-Based Services.

The second substitute bill requires the Department of Social and Health Services (Department) to prioritize available federal and private funds, seek to increase federal matching funds, and utilize existing data reporting systems and quality management processes at the state and local level toward implementing provisions of the bill. The Department must designate a lead agency to coordinate training for the delivery of services, and it must redirect existing funding resources to coordinate the purchase of evidence-based services. The Department is not required to redirect funds in a way that conflicts with federal requirements or that reduces federal financial participation. The Department is not required to act on provisions of the bill that are in conflict with Presidential Executive Order 13175, regarding consultation and coordination with Indian tribal governments, or that adversely impact tribal state consultation protocols or contractual relations.

With consultation from a number of entities and established committees, the Department must develop a unified and accountable system of care for the coordination and delivery of mental health prevention and treatment services to children and youth. The requirements for the establishment of an evidence-based practice council are removed.

The graduated requirements under the bill apply only to treatment or service needs for which evidence-based or research-based practices have been identified. Where it is unable to meet requirements of this act, the Department must report to the Legislature regarding its efforts and plans to achieve compliance.

Juvenile Justice and Child Welfare Agencies.

For juvenile justice agencies, the Department must prioritize spending on prevention and treatment services to juvenile offenders in a manner that maximizes cost benefit to the state. For child welfare programs, requirements for graduated increases in the percentage of families being served with evidence-based or research-based programs and percentage of contractors providing evidence-based or research-based services are added. "Research-based program" is defined under child welfare statutes as a program or practice that has some research demonstrating effectiveness, but that does not yet meet the standard of evidence-based practices.

Children's Mental Health.

The second substitute bill changes the graduated requirements for evidence-based practice expenditures for children's mental health services. It requires that at least 25 percent of the encounters delivered to children during the 2013-2015 biennium must be evidence-based practices. That percentage must be increased by 15 percent for each subsequent biennium until 75 percent of the encounters are for evidence-based services. The Department must establish a descriptive baseline of evidence-based service utilization for children's mental health services by July 1, 2012 and a quantitative baseline by June 30, 2013. It must implement changes in contracts, information systems, and data reporting instructions for consistent implementation of client level reporting of participation in evidence-based and promising practices by October 1, 2012.

By July 1, 2012, the Department must seek federal technical assistance regarding the Medicaid financing of evidence-based practices. It must match evidence-based practices to the Medicaid mental health state plan and provide guidance to begin implementation of encounter reporting of evidence-based practices within existing resources. This must be completed by October 1, 2012.

Over a five-year period, ending in June 2019, the Department must, subject to the appropriation of funds to support it, implement a standardized assessment tool that will direct children toward available evidence-based practices as appropriate. Subject to available funds, the Department must also initiate statewide workforce development for at least one additional evidence-based practice within a two-year period, and reinforce standardized implementation of evidence-based practices for which training and workforce development has already occurred but which are not yet fully implemented statewide. The Department must place language in prepaid inpatient health plans contracts requiring implementation of evidence-based practices for which workforce development is provided.

Private Funding.

Under the second substitute house bill, the Washington State Institute for Public Policy and the University of Washington Evidence Based Practice Institute are encouraged to seek private funding to complete the requirements under this act.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 9, 2012.

Effective Date of Second Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill acknowledges that during these times of severe revenue shortfalls, dollars must be spent on treatments with evidence that show they work. In the juvenile justice system, hundreds of millions of dollars have been saved over the last 15 years in reduced institutional costs through evidence-based practices. This bill will also achieve savings in foster care, court hearings, and criminal justice for children served in the child welfare and children's mental health systems.

Kentucky, Tennessee, and Oregon have also passed evidence-based practice legislation, though somewhat narrower in scope. The state can no longer afford to pay for business as usual which costs parents and children a lot of suffering, but also costs the taxpayers in paying for programs that do not work. Evidence-based practices have better outcomes and save taxpayer dollars. Resources from national philanthropies can be used to pay for the costs of the bill. The importance of ongoing fidelity monitoring and training to ensure the evidence-based practices are implemented adequately is recognized in the bill.

(With concerns) It is not clear what the baseline is or how much of the child welfare and children's mental health dollars are spent on evidence-based practices. The fiscal note indicates that 10 percent of the funding spent on child welfare services will go to consultation and oversight and it is important to consider the impact this might have on services that may not be considered evidence-based but are achieving positive outcomes. It is unclear what the role of the Evidence-Based Council created by the bill will be in relation to other reform efforts for the child welfare system.

By definition, training costs, higher staffing ratios, and more intensive services associated with evidence-based practices do cost more. As costs are increased in these programs and resources continue to shrink, it will require taking away services in other programs and only those with the highest needs will be served. The proposed cuts in the Governor's budget, on top of reductions which have already been made, raise questions on how this will be paid for. Agencies will need help with training costs. There are economy-of-scale issues in rural areas where there may not be enough of a program base to support an evidence-based practice program. There is a conflict in the bill with regard to federal law and requirements for allocating indirect costs.

Forcing evidence-based practices into treatment plans is not consistent with Wraparound, which is a proven cost effective model. For those with multiple and complex needs, there are no evidence-based practices to meet those needs, so they will be made to fit an evidence-based practice rather than using an approach that best fits the needs of the child. Individualized care is a more cost effective approach. Mandating these programs is prohibitively expensive in terms of ongoing staff training, credentialing and supervision. This bill is too expensive and restrictive and it is critical that child welfare reforms are both flexible and individualized.

The bill recognizes the role of juvenile courts in attempting to effectively run evidence-based practices. There are positive results from the use of evidence-based practices including a 48 percent reduction in juvenile offender filings from 1998 through 2010, and a 42 percent reduction in bed usage over the last decade. However, there are non-evidence-based practices that work in concert with the evidence-based practices and these should not be undermined. The work that the Washington State Center for Court Research does should be retained and it looks like that issue may be addressed in the proposed second substitute bill.

(Opposed) None.

Persons Testifying: (In support) Representative Dickerson, prime sponsor; and Mary Fischer, Alliance for Youth of Pierce County Evidence-Based Programs Committee, and Institute for Family Development.

(With concerns) Laurie Lippold, Children's Home Society; Donna Christensen, Washington State Catholic Conference; Gregory Robinson, Washington Community Mental Health Council; Tom McBride, Washington Association of Juvenile Court Administrators; and Rashi Gupta, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying: None.