

HOUSE BILL REPORT

E2SHB 2536

As Passed House:
February 13, 2012

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: House Committee on Ways & Means (originally sponsored by 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)].

Floor Activity:

Passed House: 2/13/12, 97-1.

Brief Summary of Engrossed 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).

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).

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 Engrossed Second 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 Department of Social and Health Services (Department) must work to identify and contract for evidence-based practices that are effective for ethnically diverse clients and must consult with tribal governments and experts in ethnically diverse communities and community organizations that serve those communities. 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 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.

The Department must utilize existing data reporting systems and quality management processes at the state and local level toward implementing provisions of the bill. It must also identify components of evidence-based practices for which federal matching funds might be claimed and seek such matching funds to support implementation of evidence-based practices.

The Department must designate a lead agency to coordinate training for the delivery of services by agencies in the juvenile justice system and those agencies that provide children's mental health services. Training for the child welfare workforce must be delivered through the Alliance for Workforce Excellence at the University of Washington, School of Social Work in accordance with an existing agreement as funds are available and in a manner that optimizes federal reimbursement.

The Department 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.

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.

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 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.

The Department must prioritize spending on prevention and treatment services to juvenile offenders in a manner that maximizes cost benefit to the state.

Children's Mental Health Services.

The Department must meet the requirements under this bill to the extent that the requirements do not conflict with any obligation that the Department has under a court order or a court-approved agreement.

By June 30, 2013, the Department must establish a baseline of evidence-based practice utilization within the managed mental health program. During the 2013-2015 biennium, at least 25 percent of the encounters delivered to children 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.

Children's Administration.

The Children's Administration must meet the following requirements for three specific areas: (1) 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; (2) the percentage of families being served with evidence-based or research-based programs; and (3) the percentage of contractors providing evidence-based or research-based services must each 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.

System of Care.

With consultation from a university-based evidence-based practice institute entity in Washington, the Washington Partnership Council on Juvenile Justice, the Child Mental Health Systems of Care Planning Committee, the Children, Youth, and Family Advisory Committee, the Washington State Racial Disproportionality Advisory Committee, a university-based child welfare research entity in Washington state, and the WSIPP, the Department must: (1) develop an integrated and accountable system of care for the coordination and delivery of mental health prevention and treatment services to children and youth; (2) ensure that implementation of research-based and evidence-based prevention and treatment programs are accompanied by monitoring and quality control procedures designed to ensure that they are delivered with fidelity to the program and that corrective action is taken when the standards are not met; and (3) acknowledge any existing system of quality control for the juvenile justice system and work within that system in meeting the graduated requirements set forth in the provisions of the bill.

Private Funding.

The WSIPP and the University of Washington EBPI are encouraged to seek private funding to complete the requirements under this act.

Reports.

Department of Social and Health Services.

The Department 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 Department, 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, including an analysis that illustrates results by race, ethnicity, and gender of the children and youth served; and
- a description of the method of the Department'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.

Appropriation: None.

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

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

Staff Summary of Public Testimony (Early Learning & Human Services):

(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.

Staff Summary of Public Testimony (Ways & Means):

(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 (Early Learning & Human Services): (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 Testifying (Ways & Means): (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 (Early Learning & Human Services): None.

Persons Signed In To Testify But Not Testifying (Ways & Means): None.