
Ways & Means Committee

ESSB 5921

Brief Description: Revising social services programs.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Regala and Carrell).

Brief Summary of Engrossed Substitute Bill

- Temporarily suspends WorkFirst activity requirements for Temporary Assistance for Needy Families (TANF) recipients with children under age six.
- Establishes a Legislative task force to oversee a variety of activities, including the WorkFirst redesign, developing outcome and accountability measures, and developing and overseeing the use of the comprehensive family assessment.
- Implements a 60-month time limit for families with undocumented parents where a TANF benefit is provided on behalf of their biological children who are citizens.
- Authorizes the DSHS to adopt rules establishing income eligibility for TANF benefits for a child, other than a foster child, who lives with a caregiver other than his or her parent.
- Directs the Department of Social and Health Services (DSHS) to implement competitive performance-based contracting for all WorkFirst activities.
- Prohibits the use of electronic benefits cards for certain products and activities including cigarettes, liquor, tattoos, and adult entertainment.
- Directs businesses to disable the ability of an ATM or point-of-sale machine to accept electronic benefits cards at certain establishments and directs the suspension of licenses for businesses that do not comply with these provisions.
- Specifies that as a condition of receiving a child care subsidy or a Working Connections Child Care subsidy, an applicant must seek child support enforcement through DSHS and authorizes the DSHS to provide child support enforcement but not retain the support collected on behalf of these families.

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.

- Directs the Department of Early Learning (DEL) and DSHS to explore options to track child care attendance and to report its recommendations to the Legislature not later than December 31, 2011.
- Establishes an Office of Fraud and Accountability (OFA) within the DSHS and specifies the responsibilities of the OFA.
- Directs the State Auditor to appoint a fraud ombudsman to audit the work of the OFA within DSHS and requires a report be submitted to the Legislature by November 30, 2012, and biennially thereafter.
- Directs the DSHS to establish an employee incentive program pilot that provides for an additional eight hours of paid annual leave for employees who work directly with participants in the WorkFirst program.

Hearing Date: 5/5/11

Staff: Melissa Palmer (786-7388).

Background:

Temporary Assistance for Needy Families.

Temporary Assistance for Needy Families (TANF) is a federal block grant established under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The TANF program replaced the Aid to Families with Dependent Children program, which had provided grants to poor families with children since the 1930s. States use TANF block grants to operate their own programs. State programs differ, but operate in accordance with the following purposes set forth in federal law:

- to provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- end the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- encourage the formation and maintenance of two-parent families.

The basic federal TANF block grant has been set at \$16.6 billion since it was established in 1996. States are required to spend their own funds on programs for needy families or face financial penalties; this is referred to as the *maintenance of effort* (MOE) requirement.

Federal law requires states to have a child support enforcement program that complies with federal requirements in order to receive federal funds for child support enforcement and Temporary Assistance for Needy Families (TANF) programs. As a condition of receiving TANF cash benefits, a family must assign its child support rights to the state during the months it receives TANF.

WorkFirst.

Washington's TANF program, created in 1997, is called WorkFirst and is administered by the DSHS. The TANF benefits are provided to two distinct populations in Washington: child-only cases and WorkFirst cases.

- *Child-Only Cases:* The TANF grants are used for children and not adults in the home. Child-only cases have few eligibility requirements or follow-up checks, unless the child was placed in a home on a dependency order by the Children's Administration.
- *WorkFirst Cases:* Eligible adults receive various forms of assistance while they participate in activities that will help them connect to the workforce.

Parents with children who receive TANF are required to participate in activities designed to lead to employment. Following an initial assessment, each recipient signs an Individual Responsibility Plan which outlines the activities the recipient is required to attend if the recipient has adequate child care and transportation. The activities generally fall into categories of barrier removal (chemical dependency treatment, English as a Second Language etc.), job search, education and training, and community jobs.

When participants fail to meet WorkFirst participation requirements, they face sanctions or reduced grants. Participants who are out of compliance with requirements for four months are terminated, but may reapply. The TANF benefits are limited to 60 months in a lifetime for families that include an adult receiving TANF, unless the family is granted a hardship extension.

WorkFirst Redesign.

The WorkFirst Subcabinet (Subcabinet) completed a re-examination of the WorkFirst program between July and November of 2010, and released its report to the Legislature on February 3, 2011. Some of recommendations from the re-examination are:

- continue to provide a full child-only TANF grant for families with income up to 200 percent of the federal poverty level, and a reduced grant for those with higher incomes;
- revise rules regarding the amount of earned income that can be disregarded when determining participants' eligibility to receive TANF assistance;
- implement reasonable eligibility requirements and follow up checks for child-only cases, for cases in which the child was not placed by the Children's Administration on a dependency order; and
- enhance participant accountability.

Working Connections Child Care Program.

The Working Connections Child Care program (WCCC) provides child care subsidies for working families with incomes at or below 175 percent of the federal poverty level. In addition to low-income working families, WCCC subsidies also may be paid on behalf of:

- families receiving TANF who are enrolled in approved activities; and
- parents under age 22, not on TANF, who are enrolled in high school or a General Education Development (GED) program.

The Economic Services Administration (ESA) within the DSHS has responsibility for verifying families' eligibility to receive WCCC subsidies. Under policies adopted by the Department of Early Learning (DEL), eligibility determinations for WCCC subsidies are effective for a period of up to six months, after which a reauthorization process is conducted to determine continued eligibility. Beginning in fiscal year 2011, families with children enrolled in the Early Childhood

Education Assistance Program (ECEAP), Head Start, or Early Head Start, are authorized for 12 months of WCCC subsidies, unless a change in circumstances requires a reauthorization sooner.

Beginning March 1, 2011, families receiving TANF benefits and families of children with special needs receive priority access to WCCC. The remaining families with incomes at 175 percent of the federal poverty guidelines or less can receive child care benefits on a "first come, first served" basis. The DSHS maintains a waiting list of potentially eligible families who apply for WCCC.

Cash Assistance.

The TANF benefits are provided to recipients through an electronic benefits transfer (EBT) card. The benefit amount is electronically added to the card each month. The EBT card can be used at ATMs and also at stores through a point of sale machine, similar to how debit cards are used.

A TANF recipient is prohibited from using an EBT card or cash obtained with an EBT card to participate in a gambling activity, a parimutuel wagering activity, or to purchase lottery tickets. The DSHS must notify EBT cardholders that using an EBT card or cash obtained with an EBT card for any of the prohibited activities could result in legal proceedings and the forfeiture of all cash benefits.

Fraud.

The Division of Fraud Investigations (DFI) within DSHS is responsible for investigating allegations of fraud by applicants and recipients of public assistance programs and for investigating allegations of fraud by vendors with whom DSHS has a contract to provide services to DSHS clients. The DFI partners with the Economic Services Administration Community Services Division to investigate current eligibility for TANF, Disability Lifeline, Basic Food, Medical, and Working Connections Child Care benefits. According to DSHS material, during the 2009 fiscal year, the cost-avoidance associated with the Fraud Early Detection program was \$24.2 million. During the same period, the DFI Overpayment Unit recovered overpayments totaling \$1.8 million and the Criminal Investigations Program referred 98 cases to state and federal prosecutors.

Summary of Bill:

WorkFirst Program.

During fiscal year 2012, the requirement that a TANF recipient participate in WorkFirst activities is suspended for one and two parent families or relatives personally providing care for a child under the age of six years. Beginning on July 1, 2012, DSHS is to begin phasing in participation in WorkFirst activities, starting with recipients closest to reaching the 60 month time limit for receiving TANF. The DSHS is to accomplish the phase-in in such a way that a fairly equal number of required participants are returned to work activities each month until all those required to participate in work activities are participating by June 30, 2013. A recipient affected by the suspension may nevertheless volunteer to participate in the WorkFirst program during the suspension.

A legislative task force overseeing the WorkFirst program is established. The President of the Senate appoints two members from the two largest caucuses in the Senate. The Speaker of the

House of Representatives appoints two members from the two largest caucuses in the House. The Governor must appoint members representing the following state agencies:

- The Department of Social and Health Services;
- The Department of Early Learning;
- The Department of Commerce;
- The Employment Security Department;
- The Office of Financial Management; and
- The State Board for Community and Technical Colleges.

The task force is to oversee the redesign of the WorkFirst program; determine evidence-based outcome measures for the program; establish strategies most likely to result in the achievement of outcome measures and the recipient's progress towards self-sufficiency; develop accountability measures for the WorkFirst recipients and the state agencies responsible for their progress towards self-sufficiency; develop and oversee the use of a comprehensive family assessment, the use of an evaluation after completion of the assessment and the use of a predictive modeling tool; improve the program's responsiveness to the needs of Washington businesses; and support families in developing skills that lead to a stable family environment and reduce intergenerational poverty.

Between July 1, 2011, and June 30, 2012, the task force must meet monthly to focus on the redesign of the program. It must issue its initial findings and recommendations no later than July 30, 2012. From July 1, 2012, to June 30, 2014, the task force will meet quarterly to provide ongoing review of the implementation of the redesign process; jointly decide how TANF state and federal dollars will be spent; make recommendations to the Governor and the Legislature regarding necessary changes to the program; receive regular reports from the partner agencies on the impact of program reductions; receive regular reports on the characteristics of families who have been unsuccessful on the WorkFirst program; review and make recommendations on the implementation of federal changes in TANF; and issue annual reports. The task force expires on June 30, 2014.

Performance-Based Contracting.

On or before July 1, 2012, DSHS must engage in competitive contracting using performance-based contracts to provide all WorkFirst work activities. The DSHS must use competitive performance-based contracting to select the vendors, including partner agencies, to provide services in the WorkFirst program. The Washington State Institute for Public Policy is to evaluate the contracting practices and outcomes. The evaluation is to include annual progress reports to the Legislature and the Governor, and the first report is due June 30, 2012. The DSHS is to work with the Subcabinet to develop appropriate outcomes by which WorkFirst contractors' performance will be evaluated. The outcomes must be developed no later than November 30, 2011.

Temporary Assistance for Needy Families.

The DSHS may establish income eligibility rules for those persons receiving TANF benefits for a child, other than a foster child, for whom the person is the caregiver. The DSHS is to establish a sliding scale benefit standard for a child when the caregiver's income is above 200 percent but below 300 percent of the federal poverty level based on family size.

Undocumented parents who receive TANF on behalf of their biological children who are U.S. citizens are ineligible to receive benefits for more than 60 months. Unless otherwise exempt, no TANF recipient can receive benefits for more than 60 months.

Working Connections Child Care Program.

As a condition of receiving a Working Connections Child Care (WCCC) subsidy, the applicant must seek child support enforcement services from DSHS, unless there is good cause not to. The payment for WCCC constitutes an authorization for DSHS to provide the WCCC recipient with child support services. The DSHS is authorized to collect but not retain child support payments.

A WCCC recipient is eligible to receive the subsidy for six months before having to recertify his or her income eligibility. The six month recertification period applies only if the WCCC program entries are capped.

The DSHS and DEL must explore different options to track subsidized child care attendance including methods using a landline or cellular telephone, a computer, a point of sale system, or some combination of these methods and report their recommendations to the Legislature by December 31, 2011. Each department's recommendations must address any implementation issues and timelines. The Legislature must review the recommendations and authorize implementation of those recommendations. The method that is chosen must interface smoothly with the current and future payment systems for subsidized child care payments.

Fraud.

A TANF recipient is prohibited from using an electronic benefits transfer (EBT) card or cash obtained with an EBT card for the following:

- to participate in or purchase activities located in a tattoo, body piercing, or body art shop;
- to purchase any alcoholic beverage;
- to purchase cigarettes or tobacco products; or
- to purchase or participate in any activity in establishments where persons under the age of 18 are not permitted.

On or before January 1, 2012, the businesses listed below must disable the ability of the ATMs and point-of-sale machines located on their business premises to accept EBT cards:

- taverns;
- beer/wine specialty stores;
- nightclubs;
- contract liquor stores;
- bail bond agencies;
- gambling establishments;
- tattoo, body piercing, or body art shops;
- adult entertainment venues with performances that contain erotic material where minors under the age of 18 are prohibited; and
- any establishments where persons under the age of 18 are not permitted.

Only the recipient or the recipient's authorized representative may use an EBT card or EBT card benefits and the use may only be for the respective benefit purposes. The recipient may not sell, or attempt to sell, exchange, or donate an EBT card or any benefits to any other person or entity.

The use of an EBT card for a prohibited use is a gross misdemeanor. Any of the listed business establishments that do not comply with the requirement to disable ATM and point-of-sale machines on their business premises from accepting EBT cards will have its business license suspended until it complies with the requirements.

The Office of Fraud and Accountability (OFA) is established in DSHS to detect, investigate, and prosecute any act that constitutes fraud or abuse in the public assistance programs administered by DSHS except for Medicaid and other medical programs. The OFA Director is to report directly to the DSHS Secretary (Secretary) and is to ensure that each citizen or employee complaint, law enforcement complaint, and agency referral is assessed and fully investigated and referred for prosecution when there is substantial evidence of wrongdoing.

The OFA is to conduct independent investigations into allegations of fraud and abuse, recommend policies, procedures, and best practices designed to detect and prevent fraud and abuse, analyze cost effective, best practice alternatives to the current cash benefit delivery system, and use best practices to determine the appropriate use and deployment of investigative resources.

By December 31, 2011, OFA is to report to the Legislature on the development of the office, identification of any barriers to meeting the stated goals of OFA, and recommendations for improvement to the system and laws related to the prevention, detection and prosecution of fraud and abuse in public assistance programs.

The Secretary or the Secretary's designee has authority to administer oaths, take testimony, and issue subpoenas. OFA is to have prompt access to all individuals, records, data, reports, audits, reviews, and other material available to the departments of Revenue, Labor and Industries, Early Learning, Licensing, Employment Security, and any other government entity that can be used to help facilitate an investigation. Information gathered is to remain confidential as required by state or federal law.

The State Auditor is to appoint a fraud ombudsman to oversee and annually audit the work of OFA. The ombudsman is to review the fraud investigative work done by OFA including cases filed with local prosecuting authorities. The ombudsman has authority to investigate citizen complaints alleging fraud or abuse in any public assistance program. The ombudsman has access to OFA frontline staff for purposes of interviews and evaluations. The ombudsman must submit a report summarizing its auditing activities to the appropriate committees of the Legislature by November 30, 2012, and biennially thereafter.

Employee Incentive Pilot.

The DSHS is to establish an employee incentive program pilot for those employees who work directly with WorkFirst participants. The pilot is to provide for eight hours of annual leave, in addition to the amount the employee normally accrues, for those employees who assist participants in meeting certain outcomes as established by DSHS. The outcomes established must be significant for the participant and can include achieving unsubsidized employment or the removal of a significant barrier to achieving unsubsidized employment. The DSHS is to report to the Legislature by January 1, 2013, on the implementation results of the pilot.

Appropriation: None.

Fiscal Note: Requested on April 29, 2011.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2011.