HOUSE BILL 2264
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State of Washington   **62nd Legislature**   **2012 Regular Session**

By Representatives Kagi, Walsh, Hinkle, Carlyle, Darneille, Jinkins, Roberts, Dickerson, and Ryu

Read first time 01/10/12. Referred to Committee on Early Learning & Human Services.

1   AN ACT Relating to performance-based contracting for certain
2 services provided to children and families in the child welfare system;
3 amending RCW 74.13.366 and 74.13.370; reenacting and amending RCW
4 74.13.020; adding new sections to chapter 74.13 RCW; and repealing RCW
5 74.13.360, 74.13.362, 74.13.364, 74.13.368, and 74.13.372.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7   NEW SECTION. **Sec. 1.** A new section is added to chapter 74.13 RCW
8 to read as follows:
9   (1) The legislature finds that:
10   (a) The state of Washington assumes legal responsibility for
11 seriously abused and neglected children when their parents or
12 caregivers are no longer willing or able to provide for their safety,
13 health, and welfare;
14   (b) Washington state has a strong history of partnership between
15 the department of social and health services and private child welfare
16 service providers who currently serve children and families in the
17 child welfare system through contracts with the department. The
18 department and its contracted providers have responsibility for

1 providing services to address parenting deficiencies resulting in child

2 maltreatment, and the needs of children impacted by maltreatment;

3   (c) The current system of contracting for services needed by

4 children and families in the child welfare system is fragmented,

5 inflexible, and lacks incentives for improving outcomes for children

6 and families.

7   (2) The legislature intends to reform the delivery of certain

8 services to children and families in the child welfare system by

9 creating a flexible, accountable community-based system of care that

10 utilizes performance-based contracting, maximizes the use of

11 evidence-based, research-based, and promising practices, and expands

12 the capacity of community-based agencies to leverage local funding and

13 other resources to benefit children and families served by the

14 department. The department and provider networks, through their

15 collaborative efforts, are expected to achieve the following goals in

16 order of importance: Child safety; child permanency, including

17 reunification; and child well-being.

18   **Sec. 2.** RCW 74.13.020 and 2011 c 330 s 4 are each reenacted and

19 amended to read as follows:

20   For purposes of this chapter:

21   (1) "Case management" means ((the management of services delivered

22 to children and families in the child welfare system, including

23 permanency services, caseworker-child visits, family visits,)) the

24 convening of family ((group conferences)) meetings, the development and

25 revision of ((the case plan, the coordination and monitoring of

26 services needed by)) service plans in collaboration with network

27 administrators, the development of the case plan for the child and

28 family, caseworker-child visits, family visits, and the assumption of

29 court-related duties, excluding legal representation, including

30 preparing court reports, attending judicial hearings and permanency

31 hearings, and ensuring that the child is progressing toward permanency

32 within state and federal mandates, including the Indian child welfare

33 act.

34   (2) "Child" means:

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

36   (b) A person age eighteen to twenty-one years who is eligible to

1 receive the extended foster care services authorized under RCW
2 74.13.031.
3 (3) "Child protective services" has the same meaning as in RCW
4 26.44.020.
5 (4) "Child welfare services" means social services including
6 voluntary and in-home services, out-of-home care, case management, and
7 adoption services which strengthen, supplement, or substitute for,
8 parental care and supervision for the purpose of:
9 (a) Preventing or remedying, or assisting in the solution of
10 problems which may result in families in conflict, or the neglect,
11 abuse, exploitation, or criminal behavior of children;
12 (b) Protecting and caring for dependent, abused, or neglected
13 children;
14 (c) Assisting children who are in conflict with their parents, and
15 assisting parents who are in conflict with their children, with
16 services designed to resolve such conflicts;
17 (d) Protecting and promoting the welfare of children, including the
18 strengthening of their own homes where possible, or, where needed;
19 (e) Providing adequate care of children away from their homes in
20 foster family homes or day care or other child care agencies or
21 facilities.
22 "Child welfare services" does not include child protection
23 services.
24 (5) ((~~"Committee" means the child welfare transformation design~~
25 ~~committee.~~
26 ~~(6)~~)) "Department" means the department of social and health
27 services.
28 (6) "Evidence-based" means a program or practice that has had
29 multiple-site random controlled trials across heterogeneous populations
30 demonstrating that the program or practice is effective for the
31 population.
32 (7) "Extended foster care services" means residential and other
33 support services the department is authorized to provide to foster
34 children. These services include, but are not limited to, placement in
35 licensed, relative, or otherwise approved care, or supervised
36 independent living settings; assistance in meeting basic needs;
37 independent living services; medical assistance; and counseling or
38 treatment.

(8) (("Measurable effects" means a statistically significant change which occurs as a result of the service or services a supervising agency is assigned in a performance-based contract, in time periods established in the contract.)) "Network administrator" means an entity that contracts with the department to provide defined services to children and families in the child welfare system through its provider network, as provided in section 3 of this act.

(9) "Out-of-home care services" means services provided after the shelter care hearing to or for children in out-of-home care, as that term is defined in RCW 13.34.030, and their families, including the recruitment, training, and management of foster parents, the recruitment of adoptive families, and the facilitation of the adoption process, family reunification, independent living, emergency shelter, residential group care, and foster care, including relative placement.

(10) "Performance-based contracting" means, for the purposes of sections 3 through 5 of this act, RCW 74.13.366 and 74.13.370, the structuring of all aspects of the procurement of services around the purpose of the work to be performed and the desired results with the contract requirements set forth in clear, specific, and objective terms with measurable outcomes and linkage of payment for services to contractor performance. ((Contracts shall also include provisions that link the performance of the contractor to the level and timing of reimbursement.))

(11) "Permanency services" means long-term services provided to secure a child's safety, permanency, and well-being, including foster care services, family reunification services, adoption services, and preparation for independent living services.

(12) "Primary prevention services" means services which are designed and delivered for the primary purpose of enhancing child and family well-being and are shown, by analysis of outcomes, to reduce the risk to the likelihood of the initial need for child welfare services.

(13) (("Supervising agency" means an agency licensed by the state under RCW 74.15.090, or licensed by a federally recognized Indian tribe located in this state under RCW 74.15.190, that has entered into a performance-based contract with the department to provide case management for the delivery and documentation of child welfare services, as defined in this section.)) "Promising practice" means a

1 practice that presents, based upon preliminary information, potential
2 for becoming a research-based or consensus-based practice.
3   (14) "Provider network" means a group of service providers who
4 contract with a network administrator to provide services to children
5 and families in the geographic area served by the network
6 administrator.
7   (15) "Research-based" means a program or practice that has some
8 research demonstrating effectiveness, but that does not yet meet the
9 standard of evidence-based practices.

10   NEW SECTION. **Sec. 3.** A new section is added to chapter 74.13 RCW
11 to read as follows:
12   (1) No later than December 1, 2012, the department may not renew
13 its current contracts with providers of child welfare services and
14 shall utilize performance-based contracting as provided in this
15 section.
16   (2) The department shall conduct a procurement process to enter
17 into performance-based contracts with one or more child service
18 provider networks, through a network administrator, to arrange,
19 coordinate, monitor, and provide services needed by children and
20 families in the child protective services and child welfare system.
21 The contract or contracts may not include the provision of case
22 management services. The contract or contracts must be executed on or
23 before December 1, 2012. The procurement and resulting contracts must
24 include standards and requirements related to:
25   (a) The delivery of services delivery through an integrated system
26 of care;
27   (b) Network administrators working in collaboration with
28 caseworkers, who have responsibility for development of service plans
29 to meet identified service needs of children and families;
30   (c) The use of family engagement approaches that include full
31 disclosure of assessment data to the family, collaborative involvement
32 of the network administrator in service planning, and opportunities for
33 families to work with the caseworker and network administrator to
34 identify goals and acquire skills needed to improve family functioning
35 and enable a child to remain safely with his or her family or safely
36 return home;

(d) The use of parents and youth who are successful veterans of child welfare involvement to help families in the child welfare system navigate the system, facilitate parent engagement, and minimize distrust of the child welfare system;

(e) The establishment of provider qualifications by network administrators who are responsible for subcontracting for services;

(f) Adequate provider capacity to meet the anticipated service needs in the network administrator's contracted service area. The provider network must demonstrate cultural competency and provider capacity in their contracted service area to address disproportionality, including utilization of tribal and other ethnic providers capable of serving children and families of color or who need language-appropriate services;

(g) Fiscal solvency of network administrators;

(h) The use of evidence-based, research-based, and promising practices, including fidelity and quality assurance provisions;

(i) Network administrators monitoring of the performance of providers in their provider network, including monitoring with respect to meeting measurable service outcomes; and

(j) Engagement in continuous quality improvement efforts.

(3) Performance-based payment methodologies must be used in network administrator contracting. Performance measures should relate to successful engagement by a child, parent, or out-of-home caregiver in services included in their case plan, and resulting improvement in identified problem behaviors and interactions. For the initial two-year period of the contract, the department may not transfer full risk for the provision of services to network administrators. However, the department may develop a shared savings methodology through which the network administration will receive a defined share of any savings that result from improved performance. If a shared savings methodology is adopted, the network administrator shall reinvest the savings to better meet the needs of the families and children they serve.

(4) The provider network selection criteria or scoring methodology may emphasize the need for network administrators with a knowledge of integrated service delivery in Washington state and evidence of demonstrated capacity to develop a strong network of service providers.

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

1   (6) The use of performance-based contracts under this section must
2 be done in a manner that does not adversely affect the state's ability
3 to continue to obtain federal funding for child welfare related
4 functions currently performed by the state and with consideration of
5 options to further maximize federal funding opportunities and increase
6 flexibility in the use of such funds, including use for preventive and
7 in-home child welfare services.

8   NEW SECTION. **Sec. 4.** A new section is added to chapter 74.13 RCW
9 to read as follows:
10   The department and provider networks shall enter into a
11 collaborative relationship as provided in this section.
12   (1) The initial assessment of a family must be conducted by the
13 department, unless it has been agreed upon by the department that
14 another organization will conduct such assessments.
15   (2) The results of any assessment must be shared with the family
16 and a representative of the network administrator at the first
17 available opportunity to meet to identify the family's service needs
18 and develop a service plan. The process to identify service needs and
19 develop service plans for families must be designed to support
20 engagement and empowerment of families. The meeting must, whenever
21 possible, include the family, a representative of the network
22 administrator, a department caseworker, and others deemed by the
23 family, department caseworker, and network administrator to be
24 appropriate to participate.
25   (3) The department caseworker is responsible for development of the
26 service plan. The network administrator must work in collaboration
27 with the caseworker to develop the service plan and refer and support
28 engagement of families in needed services with a qualified provider.
29 The network administrator must have an opportunity to provide input
30 into the nature, intensity, and duration of services prescribed so that
31 the network can maintain a sustainable business model in a low-resource
32 environment.
33   (4) The service providers must be chosen from among those in the
34 network administrator's provider network. If a reasonably qualified
35 provider is not available through the network administrator's provider
36 network, a nonnetwork provider can be approved for contracting for a

1 limited time, pending that provider meeting the provider qualifications
2 to participate in a provider network serving the geographic area in
3 which the provider practices.
4   (5) The department shall develop a dispute resolution process to be
5 used when the department caseworker and network administrator are
6 unable to reach agreement on the nature, intensity, and duration of
7 services prescribed for a child or family, or the appropriate provider.
8 The mediator or decision maker must be a person who is not currently
9 involved in the case.

10   NEW SECTION. **Sec. 5.** A new section is added to chapter 74.13 RCW
11 to read as follows:
12   To achieve the service delivery improvements and efficiencies
13 intended in sections 1, 3, and 4 of this act and RCW 74.13.366 and
14 74.13.370, pursuant to RCW 41.06.142(3), contracting with network
15 administrators to arrange, coordinate, monitor, and provide services
16 needed by children and families in the child protective services and
17 child welfare system, as provided in sections 3 and 4 of this act, and
18 execution and monitoring of individual provider contracts, as provided
19 in section 3 of this act, are expressly mandated by the legislature and
20 are not subject to the processes set forth in RCW 41.06.142 (1), (4),
21 and (5).

22   **Sec. 6.** RCW 74.13.366 and 2010 c 291 s 6 are each amended to read
23 as follows:
24   For the purposes of the provision of child welfare services by
25 ((supervising agencies under chapter 291, Laws of 2010, the department
26 shall give primary preference for performance-based contracts to
27 private nonprofit entities, including federally recognized Indian
28 tribes located in this state, who otherwise meet the definition of
29 supervising agency under RCW 74.13.020. In any continuation or
30 expansion of delivery of child welfare services purchased through the
31 use of performance-based contracts under the provisions of RCW
32 74.13.372, when all other elements of the bids are equal, private
33 nonprofit entities, federally recognized Indian tribes located in this
34 state, and state employees shall receive primary preference over
35 private for-profit entities)) provider networks, when all other
36 elements of the responses to any procurement under section 3 of this

act are equal, private nonprofit entities, federally recognized Indian
tribes located in this state, and state employees must receive primary
preference over private for-profit entities.

Sec. 7. RCW 74.13.370 and 2009 c 520 s 9 are each amended to read
as follows:
(1) ((Based upon the recommendations of the child welfare
transformation design committee, including the two sets of outcomes
developed by the committee under RCW 74.13.368(4)(b), the Washington
state institute for public policy is to conduct a review of measurable
effects achieved by the supervising agencies and compare those
measurable effects with the existing services offered by the state.
The report on the measurable effects shall be provided to the governor
and the legislature no later than April 1, 2015.
(2))) No later than June 30, ((2011)) 2013, the Washington state
institute for public policy shall provide the legislature and the
governor an initial report on the department's conversion to the use of
performance-based contracts as provided in ((RCW 74.13.360(1)))
sections 3 and 4 of this act. No later than June 30, ((2012)) 2015,
the Washington state institute for public policy shall provide the
governor and the legislature with a second report on the ((department's
conversion of its contracts to performance-based contracts)) extent to
which the use of performance-based contracting has resulted in:
(a) Increased use of evidence-based, research-based, and promising
practices;
(b) Increased use of wraparound approaches to address the needs of
children and families across multiple domains; and
(c) Improvements in outcomes for children, including child safety,
child permanency, including reunification, and child well-being.
((3)) (2) The department shall respond to the Washington
institute for public policy's request for data and other information
with which to complete these reports in a timely manner.

NEW SECTION. Sec. 8. The following acts or parts of acts are each
repealed:
(1) RCW 74.13.360 (Performance-based contracts--Child welfare
demonstration sites--Department duties--Contracts with tribes) and 2010
c 291 s 4 & 2009 c 520 s 3;

1   (2)   RCW   74.13.362   (Performance-based   contracts--Legislative
 2 mandate) and 2009 c 520 s 4;
 3   (3)   RCW   74.13.364   (Performance-based   contracts--State
 4 authority--Selection of demonstration sites) and 2010 c 291 s 5 & 2009
 5 c 520 s 5;
 6   (4)   RCW   74.13.368   (Performance-based   contracts--Child   welfare
 7 transformation design committee) and 2010 c 291 s 2 & 2009 c 520 s 8;
 8 and
 9   (5) RCW 74.13.372 (Performance-based contracts--Determination of
10 expansion of delivery of child welfare services by contractors--
11 Governor's duty) and 2009 c 520 s 10.

--- **END** ---