

# HOUSE BILL REPORT

## E2SHB 1661

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### As Passed House:

May 2, 2017

**Title:** An act relating to creating the department of children, youth, and families.

**Brief Description:** Creating the department of children, youth, and families.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Kagi, Sullivan, Dent, Senn, Muri, Kilduff, Klippert, Frame, Goodman, Ortiz-Self, Wilcox, Lovick, Hargrove, Clibborn, Lytton, Appleton, Fitzgibbon, Orwall, Kloba, Sells, Fey, Macri, Bergquist, Pollet, Hudgins, Robinson, Stanford and Slatter; by request of Office of the Governor).

### Brief History:

#### Committee Activity:

Early Learning & Human Services: 2/3/17, 2/14/17 [DPS];  
Appropriations: 2/22/17, 2/24/17 [DP2S(w/o sub ELHS)].

#### Floor Activity:

Passed House: 3/15/17, 77-19.

#### First Special Session

#### Floor Activity:

Passed House: 5/2/17, 69-23.

### Brief Summary of Engrossed Second Substitute Bill

- Creates the Department of Children, Youth, and Families (DCYF) and moves responsibility for early learning from the Department of Early Learning and child welfare programs from the Department of Social and Health Services (DSHS) to the DCYF on July 1, 2018, and juvenile justice programs from the DSHS to the DCYF on July 1, 2019.
- Creates an Office of Innovation, Alignment, and Accountability within the Office of the Governor with the duty to develop a plan for the establishment of the DCYF.
- Creates an Oversight Board for Children, Youth, and Families established by the Office of the Family and Children's Ombuds for the purpose of monitoring and ensuring that the DCYF achieves its stated outcomes.

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*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.*

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## HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Kagi, Chair; Senn, Vice Chair; Dent, Ranking Minority Member; Frame, Goodman, Kilduff, Lovick, Muri and Ortiz-Self.

**Minority Report:** Without recommendation. Signed by 3 members: Representatives McDonald, Assistant Ranking Minority Member; Griffey and McCaslin.

**Minority Report:** Do not pass. Signed by 1 member: Representative Klippert.

**Staff:** Luke Wickham (786-7146).

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## HOUSE COMMITTEE ON APPROPRIATIONS

**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 28 members: Representatives Ormsby, Chair; Robinson, Vice Chair; Chandler, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Stokesbary, Assistant Ranking Minority Member; Bergquist, Buys, Caldier, Cody, Fitzgibbon, Haler, Hansen, Harris, Hudgins, Jinkins, Kagi, Lytton, Manweller, Nealey, Pettigrew, Pollet, Sawyer, Senn, Springer, Stanford, Sullivan, Tharinger and Vick.

**Minority Report:** Do not pass. Signed by 4 members: Representatives Schmick, Taylor, Volz and Wilcox.

**Staff:** Kelci Karl-Robinson (786-7116).

### **Background:**

#### The Department of Social and Health Services.

The Department of Social and Health Services (DSHS) was established in 1970 and was created by merging the former Department of Health, Department of Public Assistance, Department of Institutions, Veterans' Rehabilitation Council, and Division of Vocational Rehabilitation of the Coordinating Council on Occupational Education. The DSHS was intended to "integrate and coordinate all those activities involving the provision of care for individuals who, as a result of their economic, social, or health condition, require financial assistance, institutional care, rehabilitation, or other social and health services."

The DSHS consists of seven program area administrations including the:

- Aging and Long-Term Support Administration;
- Behavioral Health Administration;
- Children's Administration (CA);
- Developmental Disabilities Administration;
- Economic Services Administration;
- Financial Services Administration; and
- Rehabilitation Administration.

The CA responds to allegations of abuse and neglect, offers child welfare services to families, and licenses foster homes, among other things. The CA screens allegations of abuse and neglect and determines whether a response is necessary, and if so what the appropriate response should be. If a child abuse or neglect allegation meets the criteria for a response, the case will be assigned to either Child Protective Services (CPS), the Family Assessment Response program, or to the Division of Licensing Resources. Serious allegations of child abuse or neglect will receive a CPS investigation within 24 hours. Allegations with low to moderately low risk of child abuse or neglect will receive a response from the Family Assessment Response program within 72 hours. The CA offers voluntary services to parents through the Family Voluntary Services program. The CA may also seek court intervention to approve out-of-home placement for children, request that parents engage in services to correct parental deficiencies, and to terminate parental rights in cases where parents do not correct their deficiencies.

The Rehabilitation Administration has responsibility for the Division of Vocational Rehabilitation, Juvenile Rehabilitation (JR), the Office of Juvenile Justice (OJJ), and the Special Commitment Center. The JR serves youth committed to custody by county courts for periods of incarceration lasting longer than 30 days in three facilities: Echo Glen, Green Hill, and Naselle Youth Camp. The OJJ is responsible for monitoring the state's compliance with the federal Juvenile Justice and Delinquency Prevention Act and providing support for the Washington State Partnership Council on Juvenile Justice.

#### Department of Early Learning.

The Department of Early Learning (DEL) was created by the Legislature in 2006 and has the duty to implement early learning programs including licensing centers and family home child care programs, the Early Achievers quality rating and improvement system, and the Early Childhood Education and Assistance Program. The DEL also partners with Thrive Washington to provide home visiting services, provides community grants and public awareness to prevent abuse and neglect, administers a Medicaid Treatment Child Care program, oversees the Early Support for Infants and Toddlers program, and sets policy for the Working Connection Child Care and Seasonal Child Care and Homeless Child Care subsidy programs.

#### Blue Ribbon Commission on the Delivery of Services to Children and Families.

The Blue Ribbon Commission on the Delivery of Services to Children and Families (BRC) was established by executive order in early 2016 and directed to recommend an organizational structure for a new department focused solely on children and families. The BRC met monthly from May to November of 2016 and produced a final report after its last meeting recommending that the CA and juvenile justice functions of the DSHS should be integrated with the DEL to create a new state agency, among many other recommendations.

#### Child Care Licensing.

The DEL adopts licensing standards for child care and early education programs. The licensing standards must provide minimum requirements for health and safety, address quality, consider the different needs of family care providers and child care centers, and promote the continued safety of child care settings.

If a party does not meet the minimum licensing requirements or violates licensing rules, the DEL may take an adverse licensing action against the provider by assessing a fine, deny a license application, or suspend, modify, or revoke an existing license. The DEL must give written notice of the agency's action and reasons for the action to the applicant or licensee. In general, the fine is due or the license revocation, suspension, or modification is effective 28 days after the licensee receives the notice. The DEL may make the effective date of license suspensions or revocations earlier than 28 days from the date of the notice in certain circumstances.

In lieu of taking an adverse licensing action against a child care provider, the DEL may develop a Facility Licensing Compliance Agreement (FLCA) that is an agreement between the DEL and the child care provider that the provider will take certain steps to correct violations of child care regulations. If a provider disagrees with the provisions of a FLCA, the provider may request review by a DEL supervisor. If a provider still disagrees with the FLCA after supervisory review, a provider may ask that the DEL Licensing Regional Administrator review the FLCA. The final review of a FLCA is with the DEL Statewide Licensing Administrator.

A license applicant or licensee who disagrees with the DEL's adverse licensing action has the right to an adjudicative proceeding governed by the provisions of the Administrative Procedure Act (APA). The aggrieved party must serve the DEL and the Office of Administrative Hearings (OAH) with written notice contesting the agency's action within 28 days of the party receiving the adverse notice.

### **Summary of Engrossed Second Substitute Bill:**

#### The Department of Children, Youth, and Families.

A new state agency, called the Department of Children, Youth, and Families (DCYF), is created on July 1, 2018. The intent of creating this new agency is to improve the delivery of services and the outcomes for children and families through delivery of these services by housing early learning, child welfare, and juvenile justice services in the same agency. The DCYF must establish outcome measure goals and report to the Legislature on these outcome measures and progress toward these goals no less than annually. The outcome measures are defined to include: (1) improving child development and school readiness; (2) preventing child abuse and neglect; (3) improving child and youth safety, permanency, and well-being; (4) improving reconciliation of children and youth with their families; (5) improving adolescent outcomes; (6) reducing future demand for mental health and substance use disorder treatment; (7) reducing criminal justice involvement and recidivism; and (8) reducing racial and ethnic disproportionality and disparities.

The DCYF must lead ongoing work to minimize or eliminate systemic barriers to effective, integrated services across state agencies serving children, youth, and families and help the state create a data-focused environment in which there are aligned outcomes and shared accountability for those outcomes. Performance data for the DCYF must be available to the public. No funds may be expended by the DCYF on renewed or new contracted programs unless using performance-based contracts.

On July 1, 2018, the DEL is eliminated, and the functions performed by that agency are moved to the DCYF.

On July 1, 2018, the child welfare functions of the DSHS CA move from the DSHS to the DCYF.

On July 1, 2019, the juvenile justice functions of the DSHS Juvenile Rehabilitation Administration (JRA) move from the DSHS to the DCYF.

Office of Innovation, Alignment, and Accountability.

An Office of Innovation, Alignment, and Accountability (OIAA) is created within the Office of the Governor (GOV) with the primary duty of developing and presenting a plan for the establishment of the DCYF. The secretary for the OIAA is appointed by the Governor within 30 days of the Governor signing the bill and will transition into the role of secretary of the DCYF when the OIAA transitions into the DCYF on July 1, 2018.

The plan developed by OIAA must be delivered to the Governor and Legislature by November 1, 2017, and must include:

- coordinating and convening the DEL, the DSHS, policy work groups and research institutions in the development of an integrated management portfolio management and administrative structure for the DCYF, which would include a definition of outcomes to measure performance for the DCYF;
- developing a stakeholder advisory system for the DCYF;
- coordinating with other state agencies;
- developing an information technology design and investment plan required to effectively integrate the DEL, the CA of DSHS, and the JRA of DSHS, and to meet other goals for consideration in the 2018 Supplemental Budget;
- developing a consultation policy and protocol with the 29 federally recognized tribes in the State of Washington and signatories to the Centennial Accord; and
- reviewing existing statutes affecting the DEL and the DSHS and identifying conflicts or barriers that these statutes present.

The OIAA must also develop a report on how to incorporate the staff determining eligibility for the Working Connections Child Care program and other elements of that program into the DCYF.

The OIAA transitions from the GOV to the DCYF on July 1, 2018. After that date, its functions will include:

- recommending implementation of advancements based on research;
- alignment and measurement of outcomes;
- quality assurance and evaluation of programs and services;
- leading partnerships with the community, research and teaching institutions, philanthropic organizations, and nonprofit organizations;
- leading collaboration with courts;
- producing an annual work plan that includes priorities for ongoing policy, practice, and system reform, tracking and reporting on the performance of DCYF reforms;
- appointing members of an external stakeholder committee;

- providing a report to the Governor and Legislature by November 1, 2019, that includes recommendations regarding whether the juvenile rehabilitation division of the DSHS should be integrated into the DCYF, and if so, what the appropriate timing and process is for integration of the juvenile rehabilitation division into the DCYF;
- providing a report to the Governor and Legislature by November 1, 2019, that includes a description of the current review process for foster licensing decisions and recommendations for expanding or modifying the authority of the Office of the Family and Children's Ombuds to more effectively review foster licensing decisions, or development of a separate, independent process for review of foster licensing decisions; and
- providing a report to the Governor and Legislature by November 1, 2019, that includes recommendations regarding whether the Office of Homeless Youth within the Department of Commerce should be integrated into the DCYF.

#### Oversight Board for Children, Youth, and Families.

The Office of the Family and Children's Ombuds (OFCO) must establish the Oversight Board for Children, Youth, and Families (Oversight Board) for the purpose of monitoring and ensuring that the DCYF achieves its stated outcomes. The Oversight Board is required to begin its work and call its first meeting on or after July 1, 2019. The Oversight Board includes four legislators, three subject matter experts, two parent stakeholder representatives, one child welfare caseworker representative, one law enforcement representative, two tribal representatives, and one judicial representative.

The Oversight Board has the following powers: (1) receiving OFCO reports; (2) obtaining records from the OFCO; (3) selecting its officers and adopting rules; (4) requesting investigations by the OFCO; (5) requesting and receiving information from the DCYF; (6) determining whether the DCYF meets its performance measures; (7) conducting an annual review of a sampling of provider contracts to ensure that they are performance-based; (8) conducting periodic surveys of providers, customers, parent groups, and external services; and (9) issuing an annual report.

The Oversight Board must maintain a staff not to exceed one full time employee and a board-selected executive director. The Legislative Children's Oversight Committee is eliminated, and references to that committee are replaced with references to the Oversight Board.

The Oversight Board is granted the authority to review decisions made by the internal review process for reviewing child care facility licensing compliance agreements developed by the DCYF that do not involve violations of health and safety standards and overturn, change, or uphold those decisions.

#### Child Care Licensing.

The DCYF is limited in its release of licensing history to parents and caregivers on its single source of information to license suspension, surrender, revocation, denial, stayed suspension, or reinstatement.

The DCYF must establish an internal review process for reviewing child care facility licensing compliance agreements that do not involve violations of health and safety standards. The review process must be conducted by three DCYF employees, and three child

care providers. The internal review process may overturn, change, or uphold a department licensing decision by majority vote. In the event that the individuals conducting the internal review process are equally divided, the secretary shall make the decision of the internal review process. A licensee must request review by the internal review process within ten days of the development of a child care facility licensing compliance agreement and the internal review process must be completed within 30 days of receiving the request from the licensee to initiate the internal review process.

The DCYF is prohibited from developing child care facility licensing compliance agreements with a child care provider for first-time violations of rules that do not relate to health and safety standards and that can be corrected on the same day that the violation is identified.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** This bill takes effect July 1, 2018, except for section 103, relating to the Office of Innovation, Alignment, and Accountability within the Office of the Governor, which takes effect 30 days after the Governor signs the act, and sections 601 through 631 and sections 701 through 728, relating to the transfer of juvenile justice programs, which take effect July 1, 2019.

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

(In Support) We all want our children to succeed and we know that some of our children are not succeeding. The BRC focus was intervening with families to prevent harm and allow those children to succeed. The commission was also focused on providing preventative services. This bill wants to build upon the success of the DEL. The BRC wanted to address racial and ethnic disproportionality and incorporate input from tribes. The bill is about realigning our programs and services to provide these services in a more effective manner. The OIAA is created in the bill to address the appropriate organizational structure to allow this new agency to be effective. There is a need to add accountability language to the bill. The visibility that this new agency would give to these issues will help improve these critical services. This new agency will be able to track outcomes and measure progress. The way that government organizes its programs makes a statement about government priorities. There was discussion with other states that have created a new children and family agency who indicated that a longer implementation time can result in efforts losing momentum. Moving the Economic Services Administration would have been very expensive because of its large size and complicated infrastructure. There was a unanimous vote to approve the BRC recommendations.

The BRC welcomed the input from tribal perspectives. Even though tribes are sovereign nations, those tribes need to relate to and interact with the State of Washington. Some tribes have suffered from youth suicide issues.

Washington is not alone in its efforts to improve child welfare. The fundamental way that child welfare is offered needs to be redesigned. Currently there are marginal outcomes for children and youth, and innovation is needed to improve those outcomes. The BRC

recognizes that the child welfare system cannot make these improvements alone. The delivery of services should move in a manner that is more preventative than responsive. The BRC recommends the creation of the OIAA, which is critical to the success of the new department.

There should be an adolescent unit in the new agency. This new agency is needed for children and families. The current child welfare system was designed to respond to crisis, while the research indicates that we should move the focus toward prevention. This new department will allow the state to move the focus to serve younger children in a preventative fashion. A system that is totally focused on children, youth, and families will be able to address child trauma. The BRC highlighted the brain research regarding brain trauma. The new agency will be able to appropriately respond to these issues. The JR branch of the DSHS has been on the cutting edge of using evidence-based programs.

The new department must address the racial and ethnic disproportionalities in the system. There is a need for undocumented families to access services. The new agency can ensure that families are not lingering in the system. There should be representatives from communities of color and communities who have been served by the system included in the new agency. Families should be served in a strength-based manner.

Many fathers could be better served by earlier intervention strategies. Engaging fathers as soon as possible can ensure that they can better serve their family and prevent the need to remove children. The new agency's focus on prevention even after families are involved in the system will improve outcomes for families. Historically, the CA of DSHS has been supportive of foster parents, but they have a hard time prioritizing child welfare with the many competing priorities within the DSHS.

The three priorities for this agency should be racial equity, accountability to child outcomes, and commitment to high quality early learning programs.

The child subsidy payments should be moved to the new agency. The bill should include intent language regarding early learning outcomes, moving the Working Connections Child Care program entirely into the new agency, and may need a longer timeline to become operational. The new agency has the opportunity to break down silos and shift to a preventative approach for children and families. This legislation should embody the spirit of the BRC recommendations. The intent sections should include language regarding early learning programs. The connection with the Office of the Superintendent of Public Instruction should be made clearer in the intent language.

A *Spokesman Review* article highlighted the child welfare system, and after interviewing inmates, it was indicated that 60 percent of the inmates had been in the child welfare system. Many of these individuals remembered all of the details of the time that they were removed from their parents, from the clothes they were wearing, the music that was playing, and their belongings that were lost. Improving the way that families and children receive services will not happen overnight, but the right actions are being taken in that direction.

Juvenile justice should be rolled into the new department. Too many youth who end up in jail could have been better served through mental health and other services. There should be



more external participation in the new agency, performance-based contracting should be defined, and the bill should better describe a structure for parental involvement. There is wisdom in including juvenile justice and adolescents in this new agency. This provides an opportunity to provide a more coherent and integrated approach to children and families. The children and families in the child welfare system experience a great amount of trauma. Nearly half of youth in the juvenile justice system have been or were involved in the child welfare system. There are similar needs among youth in the juvenile justice and child welfare systems. Integration of child welfare and juvenile justice allows for better services to be provided to youth and families.

(Opposed) None.

(Other) Tribes should be better represented throughout the bill. This legislation is not just about realigning programs, but changing the way that services are provided to families from responding to families after a child abuse or neglect allegation to providing services at an earlier period that allows for preventative services. The OIAA is critical to ensure program performance and evaluation. The creation of the new agency could provide a new opportunity to respond to vulnerable children and families. This can only happen with adequately paid child welfare caseworker staff. The current child welfare caseworkers experience crushing caseloads and stress. That environment has led to high turnover. Caseworkers should be better paid and there should be more caseworkers to meet the national caseload standard of 15 cases per caseworker.

**Staff Summary of Public Testimony (Appropriations):**

(In support) Law enforcement leaders are on the front lines of the broken system and strongly support proven prevention programs for all of the state's children. The state can invest now, or pay higher costs later when people become involved with the criminal justice system. The new agency will provide visibility, accountability, and a focus on improved services and outcomes. An infrastructure of prevention, brain science, equity, and supportive services can enrich communities and avoid significant costs for individuals and the state. The hope is to provide a family-centered approach without further stigmatizing families. Merging the Department of Social and Health Services Children's Administration (DSHS CA) with the Department of Early Learning can help promote optimal child outcomes and focus on a preventative approach rather than a regulatory one. Juvenile Rehabilitation is a great addition given the work it has already done with evidence-based practices. Retention of social workers will help increase timely permanency of children in foster care.

(Opposed) None.

(Other) There is agreement that a focus on prevention and early intervention is important for kids. A reorganization alone will not be successful unless the workforce is also stabilized. In state fiscal year 2015, 20 percent of case workers departed the DSHS CA. There is a need to increase pay and lower workloads to stop the hemorrhaging of staff. The proposed 2017-19 collective bargaining agreement includes additional salary increases for case workers, and the Governor's budget reduces caseloads to 18:1 for some case workers, which would be an improvement.

**Persons Testifying** (Early Learning & Human Services): (In support) Representative Kagi, prime sponsor; Mel Tonasket, Confederated Tribes of the Colville Reservation; Annie Blackledge, The Mockingbird Society; Jim Theofelis, A Way Home Washington; Sharon Osborne, Children's Home Society of Washington; Brian Carrell, Washington Association for Children & Families; Kristina Jorgensen; Alishia Agee-Cooper and Jason Bragg, Washington State Parent Ally Committee; Mike Canfield, Foster Parents Association of Washington State; Emily Murphy, Children's Alliance; Melissa Johnson, Washington State Association of Headstart and Early Childhood Education and Assistance Program; Jim Cooper, United Ways of the Pacific Northwest; Carrie Glover, WithinReach; David Beard, School's Out Washington; Erica Hallock, Fight Crime: Invest in Kids; Francie Chalmers, Washington Chapter of the American Academy of Pediatrics; Mary Van Cleve, Columbia Legal Services; Ben de Haan, Partners for Our Children; and Eric Trupin, University of Washington.

(Other) Michelle Demmert, Tulalip Tribes Reservation; Patrick Dowd, Washington State Office of the Family and Children's Ombuds; and Sean Dannen, Washington Federation of State Employees.

**Persons Testifying** (Appropriations): (In support) Erica Hallock, Fight Crime: Invest in Kids; Alise Hegle, Children's Home Society of Washington and Washington Parent Ally Committee; and Brian Carroll, Washington Association for Children and Families.

(Other) Dennis Eagle, Washington Federation of State Employees.

**Persons Signed In To Testify But Not Testifying** (Early Learning & Human Services): None.

**Persons Signed In To Testify But Not Testifying** (Appropriations): None.