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**SUBSTITUTE SENATE BILL 5763**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** Senate Human Services, Mental Health & Housing (originally sponsored by Senators Warnick, Darneille, Keiser, and Rolfes)

READ FIRST TIME 02/17/17.

1 AN ACT Relating to implementing recommendations from the  
2 children's mental health work group; amending RCW 74.09.495 and  
3 74.09.520; adding a new section to chapter 74.09 RCW; adding a new  
4 section to chapter 43.215 RCW; adding a new section to chapter  
5 28A.310 RCW; adding a new section to chapter 28A.300 RCW; adding a  
6 new section to chapter 28B.30 RCW; adding a new section to chapter  
7 28B.20 RCW; adding a new section to chapter 71.24 RCW; creating new  
8 sections; providing an effective date; and providing an expiration  
9 date.

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

11 NEW SECTION. **Sec. 1.** The legislature finds that children and  
12 their families face systemic barriers to accessing necessary mental  
13 health services. These barriers include a workforce shortage of  
14 mental health providers throughout the system of care. Of particular  
15 concern are shortages of providers in underserved rural areas of our  
16 state and a shortage of providers statewide who can deliver  
17 culturally and linguistically appropriate services. The legislature  
18 further finds that greater coordination across systems, including  
19 early learning, K-12 education, workforce development, and health  
20 care, is necessary to provide children and their families with  
21 coordinated care.

1 The legislature further finds that until mental health and  
2 physical health services are fully integrated in the year 2020,  
3 children who are eligible for medicaid services and require mental  
4 health treatment should receive coordinated mental health and  
5 physical health services to the fullest extent possible.

6 The legislature further finds that in 2013, the department of  
7 social and health services and the health care authority reported  
8 that only forty percent of the children on medicaid who had mental  
9 health treatment needs were receiving services and that mental health  
10 treatment needs increase with the number of adverse childhood  
11 experiences that a child has undergone.

12 The legislature further finds that children with mental health  
13 service needs have higher rates of emergency room use, criminal  
14 justice system involvement, and an increased risk of homelessness,  
15 and that trauma-informed care can mitigate some of these negative  
16 outcomes.

17 Therefore, the legislature intends to implement recommendations  
18 from the children's mental health work group, as reported in December  
19 2016, in order to improve mental health care access for children and  
20 their families through the early learning, K-12 education, and health  
21 care systems.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 74.09  
23 RCW to read as follows:

24 (1) For children who are eligible for medical assistance and who  
25 have been identified as requiring mental health treatment, the  
26 authority must oversee the coordination of resources and services  
27 through the managed health care system as defined in RCW 74.09.325 to  
28 ensure the child receives treatment and appropriate care based on  
29 their assessed needs, regardless of whether the referral occurred  
30 through primary care, school-based services, or another practitioner.

31 (2) The authority must require each managed health care system as  
32 defined in RCW 74.09.325 to develop and maintain adequate capacity to  
33 facilitate child mental health treatment services in the community or  
34 transfers to a behavioral health organization, depending on the level  
35 of required care, by:

36 (a) Following up with individuals to (i) ensure an appointment  
37 has been secured and completed; and (ii) track the individual's  
38 utilization of services;

1 (b) Coordinating with and reporting back to primary care provider  
2 offices on individual treatment plans and medication management, in  
3 accordance with patient confidentiality laws;

4 (c) Providing information to health plan members and primary care  
5 providers about the behavioral health resource line available twenty-  
6 four hours a day, seven days a week; and

7 (d) Maintaining an accurate list of providers contracted to  
8 provide mental health services to children and youth. The list must  
9 contain current information regarding the providers' availability to  
10 provide services. The current list must be made available to health  
11 plan members and primary care providers.

12 (3) This section expires June 30, 2020.

13 **Sec. 3.** RCW 74.09.495 and 2016 c 96 s 3 are each amended to read  
14 as follows:

15 To better assure and understand issues related to network  
16 adequacy and access to services, the authority and the department  
17 shall report to the appropriate committees of the legislature by  
18 December 1, 2017, and annually thereafter, on the status of access to  
19 behavioral health services for children birth through age seventeen  
20 using data collected pursuant to RCW 70.320.050.

21 (1) At a minimum, the report must include the following  
22 components broken down by age, gender, and race and ethnicity:

23 ~~((1))~~ (a) The percentage of discharges for patients ages six  
24 through seventeen who had a visit to the emergency room with a  
25 primary diagnosis of mental health or alcohol or other drug  
26 dependence during the measuring year and who had a follow-up visit  
27 with any provider with a corresponding primary diagnosis of mental  
28 health or alcohol or other drug dependence within thirty days of  
29 discharge;

30 ~~((2))~~ (b) The percentage of health plan members with an  
31 identified mental health need who received mental health services  
32 during the reporting period; and

33 ~~((3))~~ (c) The percentage of children served by behavioral  
34 health organizations, including the types of services provided.

35 (2) The report must also include the number of children's mental  
36 health providers available in the previous year and the overall  
37 percentage of children's mental health providers who were actively  
38 accepting new patients.

1       **Sec. 4.**    RCW 74.09.520 and 2015 1st sp.s. c 8 s 2 are each  
2 amended to read as follows:

3       (1) The term "medical assistance" may include the following care  
4 and services subject to rules adopted by the authority or department:

5       (a) Inpatient hospital services; (b) outpatient hospital services;  
6       (c) other laboratory and X-ray services; (d) nursing facility  
7       services; (e) physicians' services, which shall include prescribed  
8       medication and instruction on birth control devices; (f) medical  
9       care, or any other type of remedial care as may be established by the  
10      secretary or director; (g) home health care services; (h) private  
11      duty nursing services; (i) dental services; (j) physical and  
12      occupational therapy and related services; (k) prescribed drugs,  
13      dentures, and prosthetic devices; and eyeglasses prescribed by a  
14      physician skilled in diseases of the eye or by an optometrist,  
15      whichever the individual may select; (l) personal care services, as  
16      provided in this section; (m) hospice services; (n) other diagnostic,  
17      screening, preventive, and rehabilitative services; and (o) like  
18      services when furnished to a child by a school district in a manner  
19      consistent with the requirements of this chapter. For the purposes of  
20      this section, neither the authority nor the department may cut off  
21      any prescription medications, oxygen supplies, respiratory services,  
22      or other life-sustaining medical services or supplies.

23      "Medical assistance," notwithstanding any other provision of law,  
24      shall not include routine foot care, or dental services delivered by  
25      any health care provider, that are not mandated by Title XIX of the  
26      social security act unless there is a specific appropriation for  
27      these services.

28      (2) The department shall adopt, amend, or rescind such  
29      administrative rules as are necessary to ensure that Title XIX  
30      personal care services are provided to eligible persons in  
31      conformance with federal regulations.

32      (a) These administrative rules shall include financial  
33      eligibility indexed according to the requirements of the social  
34      security act providing for medicaid eligibility.

35      (b) The rules shall require clients be assessed as having a  
36      medical condition requiring assistance with personal care tasks.  
37      Plans of care for clients requiring health-related consultation for  
38      assessment and service planning may be reviewed by a nurse.

39      (c) The department shall determine by rule which clients have a  
40      health-related assessment or service planning need requiring

1 registered nurse consultation or review. This definition may include  
2 clients that meet indicators or protocols for review, consultation,  
3 or visit.

4 (3) The department shall design and implement a means to assess  
5 the level of functional disability of persons eligible for personal  
6 care services under this section. The personal care services benefit  
7 shall be provided to the extent funding is available according to the  
8 assessed level of functional disability. Any reductions in services  
9 made necessary for funding reasons should be accomplished in a manner  
10 that assures that priority for maintaining services is given to  
11 persons with the greatest need as determined by the assessment of  
12 functional disability.

13 (4) Effective July 1, 1989, the authority shall offer hospice  
14 services in accordance with available funds.

15 (5) For Title XIX personal care services administered by aging  
16 and disability services administration of the department, the  
17 department shall contract with area agencies on aging:

18 (a) To provide case management services to individuals receiving  
19 Title XIX personal care services in their own home; and

20 (b) To reassess and reauthorize Title XIX personal care services  
21 or other home and community services as defined in RCW 74.39A.009 in  
22 home or in other settings for individuals consistent with the intent  
23 of this section:

24 (i) Who have been initially authorized by the department to  
25 receive Title XIX personal care services or other home and community  
26 services as defined in RCW 74.39A.009; and

27 (ii) Who, at the time of reassessment and reauthorization, are  
28 receiving such services in their own home.

29 (6) In the event that an area agency on aging is unwilling to  
30 enter into or satisfactorily fulfill a contract or an individual  
31 consumer's need for case management services will be met through an  
32 alternative delivery system, the department is authorized to:

33 (a) Obtain the services through competitive bid; and

34 (b) Provide the services directly until a qualified contractor  
35 can be found.

36 (7) Subject to the availability of amounts appropriated for this  
37 specific purpose, the authority may offer medicare part D  
38 prescription drug copayment coverage to full benefit dual eligible  
39 beneficiaries.

1 (8) Effective January 1, 2016, the authority shall require  
2 universal screening and provider payment for autism and developmental  
3 delays as recommended by the bright futures guidelines of the  
4 American academy of pediatrics, as they existed on August 27, 2015.  
5 This requirement is subject to the availability of funds.

6 (9) Effective January 1, 2018, the authority shall require  
7 universal screening and provider payment for depression for children  
8 ages eleven through twenty-one as recommended by the bright futures  
9 guidelines of the American academy of pediatrics, as they existed on  
10 January 1, 2017. This requirement is subject to the availability of  
11 funds appropriated for this specific purpose.

12 NEW SECTION. Sec. 5. A new section is added to chapter 43.215  
13 RCW to read as follows:

14 (1) The department shall establish a child care consultation  
15 program linking child care providers with evidence-based and best  
16 practice resources regarding caring for infants and young children  
17 who present behavioral concerns. The department may contract with an  
18 entity with expertise in child development and early learning  
19 programs in order to operate the child care consultation program.

20 (2) In establishing and operating the program, the department or  
21 contracted entity shall: (a) Provide support and guidance to child  
22 care staff; and (b) consult and coordinate with parents, other  
23 caregivers, and experts or practitioners involved with the care and  
24 well-being of young children.

25 NEW SECTION. Sec. 6. A new section is added to chapter 28A.310  
26 RCW to read as follows:

27 Each educational service district must establish a lead staff  
28 person for mental health. The lead staff person must have the primary  
29 responsibility of coordinating medicaid billing for schools and  
30 school districts, facilitating community partnerships, sharing  
31 service models, seeking public and private grant funding, and  
32 ensuring the adequacy of other system level supports for students  
33 with mental health needs. The lead staff person must collaborate with  
34 the office of the superintendent of public instruction as provided in  
35 section 7 of this act.

36 NEW SECTION. Sec. 7. A new section is added to chapter 28A.300  
37 RCW to read as follows:

1 (1) The office of the superintendent of public instruction must  
2 employ a children's mental health services coordinator to coordinate  
3 and provide support for the activities of the mental health lead  
4 staff person in each educational service district, as provided in  
5 section 6 of this act.

6 (2) The office must designate one educational service district as  
7 a "lighthouse" to provide technical assistance to educational service  
8 district mental health leads. Technical assistance must include: (a)  
9 Facilitating peer-to-peer training opportunities; (b) providing  
10 information about the impact of racial and other disparities on  
11 children's mental health; (c) serving as a model for best practices  
12 for mental health coordination; and (d) training on medicaid billing  
13 for schools and school districts. The designated lighthouse must have  
14 experience in providing mental health services and in medicaid  
15 billing.

16 NEW SECTION. **Sec. 8.** Subject to the availability of amounts  
17 appropriated for this specific purpose, the health workforce council  
18 of the state workforce training and education coordinating board  
19 shall collect and analyze workforce survey and administrative data  
20 for clinicians qualified to provide children's mental health  
21 services, including the availability of culturally and linguistically  
22 diverse services and providers for children. The board must submit  
23 its findings and recommendations to the governor and appropriate  
24 committees of the legislature by December 1, 2018.

25 NEW SECTION. **Sec. 9.** A new section is added to chapter 28B.30  
26 RCW to read as follows:

27 Subject to the availability of amounts appropriated for this  
28 specific purpose, Washington State University shall offer one twenty-  
29 four month residency position that is approved by the accreditation  
30 council for graduate medical education to one resident specializing  
31 in child and adolescent psychiatry. The residency must include a  
32 minimum of twelve months of training in settings where children's  
33 mental health services are provided under the supervision of  
34 experienced psychiatric consultants and must be located east of the  
35 crest of the Cascade mountains.

36 NEW SECTION. **Sec. 10.** A new section is added to chapter 28B.20  
37 RCW to read as follows:

1 Subject to the availability of amounts appropriated for this  
2 specific purpose, the child and adolescent psychiatry residency  
3 program at the University of Washington shall offer one additional  
4 twenty-four month residency position that is approved by the  
5 accreditation council for graduate medical education to one resident  
6 specializing in child and adolescent psychiatry. The residency must  
7 include a minimum of twelve months of training in settings where  
8 children's mental health services are provided under the supervision  
9 of experienced psychiatric consultants and must be located west of  
10 the crest of the Cascade mountains.

11 NEW SECTION. **Sec. 11.** A new section is added to chapter 71.24  
12 RCW to read as follows:

13 (1) Upon initiation or renewal of a contract with the department,  
14 a behavioral health organization shall reimburse a provider for a  
15 behavioral health service provided to a covered person who is under  
16 eighteen years old through telemedicine or store and forward  
17 technology if:

18 (a) The behavioral health organization in which the covered  
19 person is enrolled provides coverage of the behavioral health service  
20 when provided in person by the provider; and

21 (b) The behavioral health service is medically necessary.

22 (2)(a) If the service is provided through store and forward  
23 technology there must be an associated visit between the covered  
24 person and the referring provider. Nothing in this section prohibits  
25 the use of telemedicine for the associated office visit.

26 (b) For purposes of this section, reimbursement of store and  
27 forward technology is available only for those services specified in  
28 the negotiated agreement between the behavioral health organization  
29 and provider.

30 (3) An originating site for a telemedicine behavioral health  
31 service subject to subsection (1) of this section means an  
32 originating site as defined in rule by the department.

33 (4) Any originating site, other than a home, under subsection (3)  
34 of this section may charge a facility fee for infrastructure and  
35 preparation of the patient. Reimbursement must be subject to a  
36 negotiated agreement between the originating site and the behavioral  
37 health organization. A distant site or any other site not identified  
38 in subsection (3) of this section may not charge a facility fee.



1 (5) A behavioral health organization may not distinguish between  
2 originating sites that are rural and urban in providing the coverage  
3 required in subsection (1) of this section.

4 (6) A behavioral health organization may subject coverage of a  
5 telemedicine or store and forward technology behavioral health  
6 service under subsection (1) of this section to all terms and  
7 conditions of the behavioral health organization in which the covered  
8 person is enrolled, including, but not limited to, utilization  
9 review, prior authorization, deductible, copayment, or coinsurance  
10 requirements that are applicable to coverage of a comparable  
11 behavioral health care service provided in person.

12 (7) This section does not require a behavioral health  
13 organization to reimburse:

14 (a) An originating site for professional fees;

15 (b) A provider for a behavioral health service that is not a  
16 covered benefit under the behavioral health organization; or

17 (c) An originating site or provider when the site or provider is  
18 not a contracted provider with the behavioral health organization.

19 (8) For purposes of this section:

20 (a) "Distant site" means the site at which a physician or other  
21 licensed provider, delivering a professional service, is physically  
22 located at the time the service is provided through telemedicine;

23 (b) "Hospital" means a facility licensed under chapter 70.41,  
24 71.12, or 72.23 RCW;

25 (c) "Originating site" means the physical location of a patient  
26 receiving behavioral health services through telemedicine;

27 (d) "Provider" has the same meaning as in RCW 48.43.005;

28 (e) "Store and forward technology" means use of an asynchronous  
29 transmission of a covered person's medical or behavioral health  
30 information from an originating site to the provider at a distant  
31 site which results in medical or behavioral health diagnosis and  
32 management of the covered person, and does not include the use of  
33 audio-only telephone, facsimile, or email; and

34 (f) "Telemedicine" means the delivery of health care or  
35 behavioral health services through the use of interactive audio and  
36 video technology, permitting real-time communication between the  
37 patient at the originating site and the provider, for the purpose of  
38 diagnosis, consultation, or treatment. For purposes of this section  
39 only, "telemedicine" does not include the use of audio-only  
40 telephone, facsimile, or email.

1           (9) The department must adopt rules as necessary to implement the  
2 provisions of this section.

3           NEW SECTION.   **Sec. 12.**   Section 11 of this act takes effect  
4 January 1, 2018.

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