

# SENATE BILL REPORT

## SHB 2787

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As Reported by Senate Committee On:  
Early Learning & K-12 Education, February 21, 2020  
Ways & Means, February 28, 2020

**Title:** An act relating to completing the transfer of the early support for infants and toddlers program from the office of the superintendent of public instruction to the department of children, youth, and families.

**Brief Description:** Completing the transfer of the early support for infants and toddlers program from the office of the superintendent of public instruction to the department of children, youth, and families.

**Sponsors:** House Committee on Human Services & Early Learning (originally sponsored by Representatives Callan, Harris, Eslick, Senn, Stonier, Santos, Tharinger and Pollet; by request of Office of Financial Management).

**Brief History:** Passed House: 2/13/20, 97-0.

**Committee Activity:** Early Learning & K-12 Education: 2/21/20 [DP-WM, w/oRec].  
Ways & Means: 2/27/20, 2/28/20 [DP].

### Brief Summary of Bill

- Requires the Department of Children, Youth, and Families (DCYF) to administer early intervention services to all eligible children ages birth to three.
- Removes the requirement that school districts provide or contract for early intervention services to all eligible children.
- Transfers funding currently appropriated to the Office of the Superintendent of Public Instruction to DCYF.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** Do pass and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Wilson, C., Vice Chair; Hawkins, Ranking Member; Hunt, McCoy, Mullet, Pedersen, Salomon and Wagoner.

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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.*

**Minority Report:** That it be referred without recommendation.

Signed by Senators Holy and Padden.

**Staff:** Ailey Kato (786-7434)

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## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** Do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Braun, Ranking Member; Brown, Assistant Ranking Member, Operating; Honeyford, Assistant Ranking Member, Capital; Becker, Billig, Carlyle, Conway, Darneille, Dhingra, Hasegawa, Hunt, Keiser, Muzzall, Pedersen, Rivers, Schoesler, Van De Wege, Wagoner, Warnick and Wilson, L..

**Staff:** Sarah Emmans (786-7478)

**Background:** Early Intervention Services. Part C of the federal Individuals with Disabilities Education Act (IDEA) provides early intervention services for infants and toddlers, birth to age three, who have disabilities, which includes developmental delays and diagnosed physical or mental conditions. Early intervention services include occupational or physical therapy; speech-language pathology; psychological, health, vision, social work; and other services.

DCYF is the lead agency for the state's program called Early Support for Infants and Toddlers (ESIT).

State law requires school districts to provide or contract, or both, for early intervention services in partnership with local lead agencies and providers. Early intervention services are not part of basic education under Article IX of the state Constitution.

In 2016, the Legislature directed the Office of the Superintendent of Public Instruction (OSPI) to provide the Department of Early Learning (DEL) with a full accounting of the school district expenditures in recent years for birth-to-three early intervention services. DEL was required to submit a plan to the Legislature on comprehensive and coordinated early intervention services for all eligible children. In 2018, DEL was eliminated, and its functions were transferred to DCYF.

In 2018, the Legislature directed DCYF, in consultation with OSPI and other entities, to develop a funding model to determine the amount of annual allocations to be appropriated in the operating budget for early intervention services.

In 2019, the operating budget directed DCYF, in consultation with OSPI and other entities, to develop a proposal to transfer the annual allocations appropriated for early intervention services from OSPI to DCYF beginning July 1, 2020.

Funding. Funding for early intervention services has a number of sources. DCYF receives federal part C funding and some state funding. School districts receive state funding through the special education excess cost allocations for children ages birth through four-year-olds

and five-year-olds not enrolled in kindergarten. The Department of Social and Health Services also receives funding for early intervention services.

Payor of Last Resort. Federal regulation provides that federal funding may not be used to satisfy a financial commitment for services that would otherwise have been paid for from another public or private source. Current DCYF rule provides that early intervention services providers must bill all applicable funding sources, including public and private insurance and families, prior to using state and federal funds for early intervention services.

Performance-Based Contracts. DCYF must ensure that all new and renewed contracts for services are performance-based. "Performance-based contract" means results-oriented contracting that focuses on the quality or outcomes that tie at least a portion of the contractor's payment, extensions, or renewals to the achievement of specific measurable performance standards and requirements.

**Summary of Bill:** Early Intervention Services. The requirement that school districts provide or contract for early intervention services to all eligible children with disabilities from birth to three years of age is removed.

DCYF must administer the ESIT program to provide early intervention services to all eligible children.

DCYF must enter into formal interagency agreements, where appropriate, with school districts, counties, and other providers, to define their relationships and financial and service responsibilities.

Funding. Funding for the ESIT program must be appropriated to DCYF based on the annual average headcount of children ages birth to three who are eligible and receiving early intervention services, multiplied by the total statewide allocation generated by the prototypical school funding formula and for professional learning days, per the statewide full-time equivalent enrollment in common schools, multiplied by 1.15.

A child is receiving early intervention services if they received services within a month prior to the monthly count day.

DCYF must distribute funds to early intervention services providers, and, when appropriate, to county lead agencies.

Children ages birth to three are removed from the special education excess cost allocation to school districts.

Payor of Last Resort. Federal funds associated with Part C of IDEA must be subject to payor of last resort requirements as required by federal regulation.

Performance-Based Contracts. Between September 1, 2020, and September 1, 2021, contracts for the provision of early intervention services are exempt from the requirements for performance-based contracts.

Reference to a 2016 report is removed. The early intervention services statute is recodified and references to that statute are updated.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on September 1, 2020.

**Staff Summary of Public Testimony (Early Learning & K-12 Education):** PRO: DCYF has rulemaking authority for this program and should receive the funding. Consolidating this program into one agency will provide accountability. The provider community has provided input on the content of the bill and the changes.

**Persons Testifying (Early Learning & K-12 Education):** PRO: Representative Lisa Callan, Prime Sponsor; Frank Ordway, DCYF.

**Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education):** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: This bill marks the end of a multi-year journey. Under the current structure, DCYF splits the Early Support for Infants and Toddlers responsibility with multiple school districts. Consolidating this funding and responsibility will ensure that the Legislature has better information about how the money is spent and about the good outcomes that result from this program. DCYF's partnership with the provider community is very strong regarding this transfer, and they are supportive as well.

**Persons Testifying (Ways & Means):** PRO: Frank Ordway, DCYF.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.