

# FINAL BILL REPORT

## E2SHB 1188

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Synopsis as Enacted

**Brief Description:** Concerning individuals with developmental disabilities that have also received child welfare services.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Senn, Taylor, Reed, Leavitt, Callan, Macri, Simmons, Timmons, Chopp, Lekanoff, Couture, Gregerson, Thai, Wylie, Stonier, Schmick, Santos, Pollet, Kloba, Eslick and Ormsby).

**House Committee on Human Services, Youth, & Early Learning**  
**House Committee on Appropriations**  
**Senate Committee on Human Services**  
**Senate Committee on Ways & Means**

### **Background:**

#### Child Welfare Services.

Suspected child abuse or neglect may be reported to the Department of Children, Youth, and Families (DCYF) Child Protective Services (CPS) office or to law enforcement. If CPS determines that a report is credible and meets screening criteria, it will assign either a 24-hour investigation response or 72-hour family assessment response, depending on the severity of the allegation.

Anyone, including the Department of Children, Youth, and Families (DCYF), may file a petition in court alleging that a child should be a dependent of the state due to abuse, neglect, or because there is no parent, guardian, or custodian capable of adequately caring for the child. A court will hold a shelter care hearing following removal of a child from his or her home within 72 hours. At this hearing, the court will determine if the child can return home safely. If a court determines that a child is dependent, the court will conduct periodic reviews and make determinations regarding the child's placement, provision of services by the DCYF, and compliance and progress of the parents.

*Out-of-Home Care.* When children are removed from the home of a parent or guardian due

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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 part of the legislation nor does it constitute a statement of legislative intent.*

to allegations of abuse or neglect, those children may be placed with relatives or in foster care. Relatives care for almost half of the children placed in out-of-home care. Foster parents are licensed by either the DCYF or private child-placing agencies and provide temporary care to children with the goal of reunifying the child with his or her parent or guardian.

*Extended Foster Care Program.* The extended foster care program is a program that allows youth who are dependents of the state at age 18 to voluntarily agree to continue receiving foster care services until age 21, provided that they are enrolled in an educational or vocational program, participating in a program or activity to reduce barriers to employment, working 80 hours or more a month, or have certain medical conditions.

#### Developmental Disability Services.

The Developmental Disabilities Administration (DDA) of the Department of Social and Health Services (DSHS) assists individuals with developmental disabilities and their families to obtain services and support based on individual preferences, capabilities, and needs. While some DDA clients live in residential habilitation centers, an institutional setting, most clients live in the community.

Home and Community Based Services Medicaid waivers (waiver services) allow clients who live in community settings to receive optional services at the same level as they would receive in an institutional setting. The DDA offers services under five waivers: Core, Basic Plus, Community Protection Program, Individual and Family Services, and Children's Intensive In-Home Behavior Supports (CIIBS). The waiver services provided to DDA clients are designed to promote everyday activities, routines, and relationships, and may include services targeted at community integration, support services provided by contracted professionals, caregiving, and equipment, supplies, and other specialized services. To be eligible for waiver services, the individual must meet certain criteria, including:

- having a qualifying disability;
- meeting the intermediate care facility requirements for individuals with an intellectual disability level of care;
- meeting financial eligibility criteria;
- choosing to receive services in the community rather than in an intermediate care facility; and
- meeting other waiver-specific criteria.

The CIIBS waiver supports youth with challenging behaviors. In addition to other waiver eligibility criteria, to be eligible for CIIBS services, a child must:

- be under age 21;
- have an assessed acuity score that indicates that the child's behavior puts the child or family at risk or is very likely to require an out-of-home placement; and
- reside in his or her family home, or be temporarily in an out-of-home placement with a plan to return home.

The child's family must also agree to participate in the CIIBS program. The CIIBS services are not available when the child's family is subject to an unresolved CPS referral.

Under agency rules, children subject to dependency proceedings are not eligible for the DDA's waiver services; however, there is a statutory requirement that the DDA must give priority for waiver services to eligible individuals who exited a dependency proceeding within the last two years when there is funded capacity for those waivers.

#### Caseload Forecasting and Budgeting.

A biennial operating budget appropriates funding for the operation of state government and is adopted every two years. Supplemental budgets may also be enacted in the years following adoption of the biennial operating budget. Budget decisions may be categorized as either a "maintenance level" or "policy level" decision. "Maintenance level" refers to the estimated appropriations necessary to continually maintain program and service levels that were funded in the prior biennium or otherwise mandated by law. "Maintenance level" items may include adjustments for forecasted changes in entitlement caseloads or other mandatory expenses. All other budget decisions are generally categorized as "policy level" and may include decisions such as creating or eliminating programs, changing vendor or employee payment rates, or changing program eligibility.

The Caseload Forecast Council (CFC) prepares official state forecasts for entitlement programs and provides courtesy forecasts for other types of services. For instance, the CFC provides courtesy forecasts of the number of eligible individuals who have requested supported living and a service through certain DDA waivers.

#### **Summary:**

The CIIBS waiver services may supplement the child welfare services a child receives from the DCYF, and the prohibition against access to CIIBS services while the family is subject to an unresolved CPS referral is removed. Additionally, CIIBS services may be provided to children in out-of-home placements without requiring that the placement is temporary with a plan to return home.

No later than January 1, 2024, the DSHS must request federal approval to modify eligibility requirements for DDA waiver services to include eligible individuals who:

- on or after the effective date of the act, are subject to a dependency, are receiving extended foster care services, or exited a dependency or discontinued extended foster care services; and
- will begin receiving DDA waiver services before their twenty-fifth birthday.

To the extent consistent with federal law and federal funding requirements, the DSHS must provide DDA waiver services to this population no later than December 1, 2024. The CFC must forecast the number of individuals who meet these criteria and who are also functionally and financially eligible for, and expected to utilize, DDA waiver services.

Waiver slots for this population must be forecasted and budgeted as maintenance level costs.

By December 1, 2025, the DSHS must submit a report to the Governor and the Legislature on the feasibility of establishing a new Medicaid waiver tailored to meet the needs of dependent children and youth with developmental disabilities who are age 20 or younger and cannot be adequately served through an existing DDA waiver. The report must include:

- a comprehensive list and description of the services anticipated to be included in the new waiver and the associated costs by each age group;
- information on approaches taken by other states to serve children and youth in dependencies with developmental disabilities; and
- information on the outcome of services being provided under the amended existing waivers.

Services under a new waiver are intended to supplement, and not supplant, the child welfare services and supports a child or youth is entitled to or receives from the DCYF or other sources. In designing a new waiver, the DSHS must collaborate with the DCYF and other relevant stakeholders to identify the services and supports currently provided to dependent children and youth and identify services and supports that will supplement supports already provided. The DCYF must provide to the DSHS all information and data that is necessary for the DSHS to determine eligibility, provide appropriate and timely services and supports, maintain compliance with federal funding requirements, and complete the design of the new waiver.

**Votes on Final Passage:**

House	97	0	
Senate	49	0	(Senate amended)
House	96	0	(House concurred)

**Effective:** July 23, 2023