

# SENATE BILL REPORT

## 2SHB 1168

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As of March 30, 2023

**Title:** An act relating to providing prevention services, diagnoses, treatment, and support for prenatal substance exposure.

**Brief Description:** Providing prevention services, diagnoses, treatment, and support for prenatal substance exposure.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Simmons, Ramel, Callan, Wylie, Davis and Ormsby).

**Brief History:** Passed House: 3/7/23, 95-0.

**Committee Activity:** Health & Long Term Care: 3/23/23, 3/28/23 [DP-WM].

Ways & Means: 3/30/23.

### Brief Summary of Bill

- Adds the Department of Children, Youth, and Families (DCYF) to the Fetal Alcohol Exposure Interagency Agreement and expands the agreement to include exposure to prenatal substances other than alcohol.
- Requires DCYF to develop treatment and family support services for children prenatally exposed to substances.
- Requires the Health Care Authority to submit recommendations to the Legislature on increasing access to diagnoses, treatment, services, and supports.

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### SENATE COMMITTEE ON HEALTH & LONG TERM CARE

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

Signed by Senators Cleveland, Chair; Robinson, Vice Chair; Rivers, Ranking Member; Muzzall, Assistant Ranking Member; Conway, Dhingra, Holy, Padden, Randall and Van De Wege.

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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.*

**Staff:** Megan Tudor (786-7478)

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Joshua Hinman (786-7281)

**Background:** Fetal Alcohol Spectrum Disorders. Fetal alcohol spectrum disorders (FASD) are a group of conditions that can occur in a person who was exposed to alcohol before birth, which can lead to physical, behavioral, and learning complications. Conditions can range from mild to severe and affect each person differently.

According to the Centers for Disease Control and Prevention (CDC), FASD manifests in a variety of ways, including but not limited to: low body weight, poor coordination, hyperactive behavior, difficulty with attention, poor memory, speech and language delays, and problems with the heart, kidneys, or bones.

Fetal alcohol spectrum disorder diagnoses are based on particular symptoms and include fetal alcohol syndrome, alcohol-related neurodevelopmental disorder, alcohol-related birth defects, and neurobehavioral disorder associated with prenatal alcohol exposure.

Fetal Alcohol Exposure Interagency Agreement. The Department of Social and Health Services, the Department of Health, the Department of Corrections, and the Office of the Superintendent of Public Instruction execute a Fetal Alcohol Exposure Interagency Agreement (Interagency Agreement) to ensure the coordination of identification, prevention, and intervention programs for children who have fetal alcohol exposure, and for women at high risk of having children with fetal alcohol exposure.

**Summary of Bill:** Department of Children, Youth, and Families Contracts. By January 1, 2024, the Department of Children, Youth, and Families (DCYF) is required to contract with a provider with expertise in comprehensive prenatal exposure treatment and support to offer services to children over the age of three and families who are or have been involved in the child welfare system or who are at risk of involvement in the system. The contract must maximize the number of families served through DCYF and community referrals.

By January 1, 2025, DCYF must contract with up to three additional providers across the state to offer comprehensive treatment services for prenatal substance exposure and family supports for children that are or have been involved with the child welfare system who were exposed to substances before birth. Comprehensive treatment services and family supports must be trauma-informed and may include the following:

- occupational, speech, and language therapy;
- behavioral health counseling and caregiver counseling;
- sensory processing support;
- educational advocacy, psychoeducation, social skills support, and groups;
- linkages to community resources; and

- family supports and education.

DCYF must collect outcome data and submit a report to the Legislature by June 1, 2028, addressing the expansion of services under the contracts and recommendations related to improving the availability of and access to services.

Health Care Authority Recommendations and Contract. The Health Care Authority (HCA) must submit recommendations to the Legislature on ways to increase access to diagnose, treatment, services and support for children who were exposed to substances before birth and their families and caregivers. These recommendations must at least address the following:

- ensuring an adequate payment rate for the interdisciplinary diagnosis team;
- developing sufficient diagnosis services capacity in rural and urban areas;
- increasing availability of treatment, including all treatments and services recommended by CDC;
- reviewing all barriers to accessing treatment and making recommendations on removing these barriers;
- recommendations related to defining medical necessity, prior authorization requirements for diagnosis and treatment services, and limitations of treatment procedure codes and insurance coverage.

Subject to the availability of appropriations, HCA must contract with a statewide nonprofit entity with expertise in both FASD and family and caregiver support to offer free support groups for individuals with FASD and their parents and caregivers.

Fetal Alcohol Exposure Interagency Agreement. DCYF is added to the Interagency Agreement, and the scope of the agreement is expanded to include other prenatal substance exposures.

**Appropriation:** The bill contains a null and void clause requiring specific funding be provided in an omnibus appropriation act.

**Fiscal Note:** Available.

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

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony (Health & Long Term Care):** PRO: 1 in 10 children will be born with potential complications due to prenatal substance abuse and currently there are only 2 providers in the state that can actually give a diagnosis. If the Legislature can help kids early on, there will be a return on investment later in the decreased costs of association with incarceration, juvenile justice system, and child welfare system involvement. Helping families avoid these issues will make for a much better society.

During the pandemic, substance use increased and there will be additional children born with potential complications—physical, behavioral, developmental, and intellectual. This is a slimmed down version of the bill due to fiscal reasons, but the Legislature can continue to build on this and prevent a lot of future complications for this population. Washington currently lacks the infrastructure to diagnose and effectively treat all children born with Fetal Alcohol Spectrum Disorders. This bill will help families across the state find the services and supports needed for their children.

**Persons Testifying (Health & Long Term Care):** PRO: Representative Tarra Simmons, Prime Sponsor; Melanie Smith, Wonderland Child and Family Services; Alex Lundy, Hope Rising Clinic; Lauren Burke, Parent.

**Persons Signed In To Testify But Not Testifying (Health & Long Term Care):** No one.

**Staff Summary of Public Testimony (Ways & Means):** PRO: One in ten children have been exposed to drugs or alcohol while prenatal. The state lacks services and treatment. Intellectual and behavioral challenges can be lifelong and requires specific treatment, and these children have a higher involvement in the justice system. The bill has been cost-reduced and asks for ongoing recommendations from HCA.

**Persons Testifying (Ways & Means):** PRO: Melanie Smith, Wonderland Child and Family Services.

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