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**SECOND SUBSTITUTE HOUSE BILL 1188**

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**State of Washington**

**68th Legislature**

**2023 Regular Session**

**By** House 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)

1 AN ACT Relating to individuals with developmental disabilities  
2 that have also received child welfare services; amending RCW  
3 43.88C.010, 43.88.058, and 71A.12.370; adding a new section to  
4 chapter 71A.12 RCW; creating a new section; and providing an  
5 effective date.

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

7 **Sec. 1.** RCW 43.88C.010 and 2022 c 219 s 2 are each amended to  
8 read as follows:

9 (1) The caseload forecast council is hereby created. The council  
10 shall consist of two individuals appointed by the governor and four  
11 individuals, one of whom is appointed by the chairperson of each of  
12 the two largest political caucuses in the senate and house of  
13 representatives. The chair of the council shall be selected from  
14 among the four caucus appointees. The council may select such other  
15 officers as the members deem necessary.

16 (2) The council shall employ a caseload forecast supervisor to  
17 supervise the preparation of all caseload forecasts. As used in this  
18 chapter, "supervisor" means the caseload forecast supervisor.

19 (3) Approval by an affirmative vote of at least five members of  
20 the council is required for any decisions regarding employment of the  
21 supervisor. Employment of the supervisor shall terminate after each

1 term of three years. At the end of the first year of each three-year  
2 term the council shall consider extension of the supervisor's term by  
3 one year. The council may fix the compensation of the supervisor. The  
4 supervisor shall employ staff sufficient to accomplish the purposes  
5 of this section.

6 (4) The caseload forecast council shall oversee the preparation  
7 of and approve, by an affirmative vote of at least four members, the  
8 official state caseload forecasts prepared under RCW 43.88C.020. If  
9 the council is unable to approve a forecast before a date required in  
10 RCW 43.88C.020, the supervisor shall submit the forecast without  
11 approval and the forecast shall have the same effect as if approved  
12 by the council.

13 (5) A councilmember who does not cast an affirmative vote for  
14 approval of the official caseload forecast may request, and the  
15 supervisor shall provide, an alternative forecast based on  
16 assumptions specified by the member.

17 (6) Members of the caseload forecast council shall serve without  
18 additional compensation but shall be reimbursed for travel expenses  
19 in accordance with RCW 44.04.120 while attending sessions of the  
20 council or on official business authorized by the council.  
21 Nonlegislative members of the council shall be reimbursed for travel  
22 expenses in accordance with RCW 43.03.050 and 43.03.060.

23 (7) "Caseload," as used in this chapter, means:

24 (a) The number of persons expected to meet entitlement  
25 requirements and require the services of public assistance programs,  
26 state correctional institutions, state correctional noninstitutional  
27 supervision, state institutions for juvenile offenders, the common  
28 school system, long-term care, medical assistance, foster care, and  
29 adoption support;

30 (b) The number of students who are eligible for the Washington  
31 college bound scholarship program and are expected to attend an  
32 institution of higher education as defined in RCW 28B.92.030;

33 (c) The number of students who are eligible for the Washington  
34 college grant program under RCW 28B.92.200 and 28B.92.205 and are  
35 expected to attend an institution of higher education as defined in  
36 RCW 28B.92.030; and

37 (d) The number of children who are eligible, as defined in RCW  
38 43.216.505, to participate in, and the number of children actually  
39 served by, the early childhood education and assistance program.

1 (8) The caseload forecast council shall forecast the temporary  
2 assistance for needy families and the working connections child care  
3 programs as a courtesy.

4 (9) By January 1, 2023, the caseload forecast council shall  
5 present the number of individuals who are assessed as eligible for  
6 and have requested a service through the individual and family  
7 services waiver and the basic plus waiver administered by the  
8 developmental disabilities administration as a courtesy. The caseload  
9 forecast council shall be presented with the service request list as  
10 defined in RCW 71A.10.020 to aid in development of this information.

11 (10) Beginning with the official forecast submitted in November  
12 2022 and subject to the availability of amounts appropriated for this  
13 specific purpose, the caseload forecast council shall forecast the  
14 number of individuals who are assessed as eligible for and have  
15 requested supported living services, a service through the core  
16 waiver, an individual and family services waiver, and the basic plus  
17 waiver administered by the developmental disabilities administration  
18 as a courtesy. The caseload forecast council shall be presented with  
19 the service request list as defined in RCW 71A.10.020 to aid in  
20 development of this information.

21 (11) As a courtesy, beginning with the official forecast  
22 submitted in November 2022, the caseload forecast council shall  
23 forecast the number of individuals who are expected to reside in  
24 state-operated living alternatives administered by the developmental  
25 disabilities administration.

26 (12) The caseload forecast council shall forecast youth  
27 participating in the extended foster care program pursuant to RCW  
28 74.13.031 separately from other children who are residing in foster  
29 care and who are under eighteen years of age.

30 (13) The caseload forecast council shall forecast the number of  
31 youth expected to receive behavioral rehabilitation services while  
32 involved in the foster care system and the number of screened in  
33 reports of child abuse or neglect.

34 (14) The caseload forecast council shall forecast the number of  
35 individuals who are functionally and financially eligible for  
36 medicaid waiver services administered by the developmental  
37 disabilities administration who also meet the criteria outlined in  
38 RCW 71A.12.370, as well as the number of individuals who qualify for  
39 the waiver for dependent children and youth under section 3 of this  
40 act.

1        (15) Unless the context clearly requires otherwise, the  
2 definitions provided in RCW 43.88.020 apply to this chapter.

3        ~~((15))~~ (16) During the 2021-2023 fiscal biennium, and beginning  
4 with the November 2021 forecast, the caseload forecast council shall  
5 produce an unofficial forecast of the long-term caseload for juvenile  
6 rehabilitation as a courtesy.

7        **Sec. 2.** RCW 43.88.058 and 2021 c 334 s 1904 are each amended to  
8 read as follows:

9        For the purposes of this chapter, expenditures for the following  
10 ~~((foster care, adoption support and related services, and child  
11 protective))~~ services must be forecasted and budgeted as maintenance  
12 level costs:

13        (1) Behavioral rehabilitation services placements;

14        (2) Social worker and related staff to receive, refer, and  
15 respond to screened-in reports of child abuse or neglect ~~((, except in  
16 fiscal year 2021))~~;

17        (3) Court-ordered parent-child and sibling visitations delivered  
18 by contractors; ~~((and))~~

19        (4) Those activities currently being treated as maintenance level  
20 costs for budgeting or forecasting purposes on June 7, 2018,  
21 including, but not limited to: (a) Adoption support and other  
22 adoption-related expenses; (b) foster care maintenance payments; (c)  
23 child-placing agency management fees; (d) support goods such as  
24 clothing vouchers; (e) child aides; and (f) child care for children  
25 in foster or relative placements when the caregiver is at work or in  
26 school; and

27        (5) Developmental disability waiver slots as required under RCW  
28 71A.12.370.

29        NEW SECTION. **Sec. 3.** A new section is added to chapter 71A.12  
30 RCW to read as follows:

31        (1) The legislature recognizes that children and youth with  
32 developmental disabilities who are subject to a dependency have  
33 unique support needs. To this end, the legislature intends to  
34 establish a new medicaid waiver for this population.

35        (2) The department shall seek federal approval to establish a new  
36 medicaid waiver tailored to meet the needs of dependent children and  
37 youth with developmental disabilities. The services provided in this  
38 waiver shall supplement, and not supplant, the child welfare services

1 and supports a child or youth is entitled to or receives under Title  
2 IV-E of the social security act from the department of children,  
3 youth, and families, and may not duplicate services or supports  
4 available through other funding sources.

5 (3) The department shall be the lead administrative agency for  
6 the waiver for dependent children and youth and shall collaborate  
7 with the department of children, youth, and families to identify the  
8 services and supports currently provided to dependent children and  
9 youth and identify services and supports that will supplement  
10 supports already provided. The department of children, youth, and  
11 families shall provide to the department all information and data  
12 that is necessary for the department to determine eligibility for  
13 services, to provide appropriate and timely services and supports to  
14 qualifying children and youth, and to implement and maintain  
15 compliance with federal funding requirements.

16 (4) Children and youth who are eligible to receive services under  
17 the waiver for dependent children and youth are:

18 (a) Determined to be eligible to receive waiver services from the  
19 developmental disabilities administration;

20 (b) Age 20 or younger; and

21 (c) On or after the effective date of this section:

22 (i) Subject to a dependency proceeding under chapter 13.34 RCW,  
23 or are an Indian child who is in the custody of a federally  
24 recognized Indian tribe as defined in RCW 43.376.010 or the tribe's  
25 placing agency; or

26 (ii) Receiving extended foster care services as defined in RCW  
27 74.13.020.

28 **Sec. 4.** RCW 71A.12.370 and 2021 c 56 s 4 are each amended to  
29 read as follows:

30 (~~When there is funded capacity for services~~) (1) Services  
31 provided through a medicaid waiver administered by the department,  
32 (~~and~~) to the extent consistent with federal law and federal funding  
33 requirements, (~~priority for that waiver~~) shall be provided to  
34 eligible individuals who (~~exited~~) meet the following  
35 characteristics on or after the effective date of this section:

36 (a) (i) Are subject to a dependency;

37 (ii) Are receiving extended foster care services as defined in  
38 RCW 74.13.020; or

1 (iii) Exited a dependency ((proceeding under chapter 13.34 RCW  
2 within the last two years)) or discontinued extended foster care  
3 services as defined in RCW 74.13.020; and

4 (b) Will begin receiving waiver services prior to the  
5 individual's 25th birthday.

6 (2) For purposes of this section, a "dependency" includes both a  
7 dependency proceeding under chapter 13.34 RCW and circumstances in  
8 which an Indian child is in the custody of a federally recognized  
9 Indian tribe as defined in RCW 43.376.010 or the tribe's placing  
10 agency.

11 NEW SECTION. Sec. 5. Sections 1, 2, and 4 of this act take  
12 effect January 1, 2025.

13 NEW SECTION. Sec. 6. If specific funding for the purposes of  
14 this act, referencing this act by bill or chapter number, is not  
15 provided by June 30, 2023, in the omnibus appropriations act, this  
16 act is null and void.

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