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SENATE BILL 6832

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State of Washington

61st Legislature

2010 Regular Session

By Senator Hargrove

Read first time 02/03/10. Referred to Committee on Human Services & Corrections.

1 AN ACT Relating to the implementation of delivery of child welfare  
2 services through performance-based contracts by adding a foster youth  
3 representative to the child welfare transformation design committee; by  
4 requiring the child welfare transformation design committee to develop  
5 recommendations for a competitive contract bidding process to allow  
6 state employees to bid for performance-based contracts for provision of  
7 case management and child welfare services if the demonstration sites  
8 are continued beyond the pilot period or further expanded; by  
9 clarifying the definition of supervising agency in relation to Indian  
10 tribes located in this state; by extending for six months the date by  
11 which the department must complete its contract conversion to  
12 performance-based contracts; by requiring that the performance contract  
13 conversion be accomplished in a manner that does not affect the  
14 department's ability to collect federal funding; by extending by six  
15 months the date by which supervising agencies must provide case  
16 management services in the demonstration sites; by clarifying that the  
17 primary preference for contracts if the demonstration sites are  
18 extended is with nonprofits, Indian tribes, and state employees; by  
19 clarifying that the department may provide child welfare services in  
20 the demonstration sites but only for the purpose of establishing a  
21 control or comparison group; amending RCW 74.13.368, 74.13.360,

1 74.13.364, and 74.13.366; reenacting and amending RCW 74.13.020; and  
2 creating a new section.

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

4 NEW SECTION. **Sec. 1.** The legislature finds that, based upon the  
5 work of the child welfare transformation design committee established  
6 pursuant to 2SHB 2106 during the 2009 legislative session, several  
7 narrowly based amendments to that legislation need to be made, mainly  
8 for clarifying purposes. The legislature further finds that two  
9 deadlines need to be extended by six months, the first to allow the  
10 department of social and health services additional time to complete  
11 the conversion of its contracts to performance-based contracts and the  
12 second to allow the department additional time to gradually transfer  
13 existing cases to supervising agencies in the demonstration sites. The  
14 legislature finds that the addition of a foster youth on the child  
15 welfare transformation design committee will greatly assist the  
16 committee in its work.

17 The legislature intends that a competitive contract bidding process  
18 should be developed to allow state employees to bid for performance-  
19 based contracts to provide case management services if the work in the  
20 demonstration sites is continued or enlarged, and the child welfare  
21 transformation design committee is in the best position to develop that  
22 process. The legislature recognizes that clarifying language regarding  
23 Indian tribes should be added regarding the government-to-government  
24 relationship the tribes have with the state. The legislature further  
25 recognizes that language is needed regarding the department's ability  
26 to receive federal funding based upon the recommendations made by the  
27 child welfare transformation design committee.

28 **Sec. 2.** RCW 74.13.368 and 2009 c 520 s 8 are each amended to read  
29 as follows:

30 (1)(a) The child welfare transformation design committee is  
31 established, with members as provided in this subsection.

32 (i) The governor or the governor's designee;

33 (ii) Four private agencies that, as of May 18, 2009, provide child  
34 welfare services to children and families referred to them by the  
35 department. Two agencies must be headquartered in western Washington

1 and two must be headquartered in eastern Washington. Two agencies must  
2 have an annual budget of at least one million state-contracted dollars  
3 and two must have an annual budget of less than one million state-  
4 contracted dollars;

5 (iii) The assistant secretary of the children's administration in  
6 the department;

7 (iv) Two regional administrators in the children's administration  
8 selected by the assistant secretary, one from one of the department's  
9 administrative regions one or two, and one from one of the department's  
10 administrative regions three, four, five, or six;

11 (v) The administrator for the division of licensed resources in the  
12 children's administration;

13 (vi) Two nationally recognized experts in performance-based  
14 contracts;

15 (vii) The attorney general or the attorney general's designee;

16 (viii) A representative of the collective bargaining unit that  
17 represents the largest number of employees in the children's  
18 administration;

19 (ix) A representative from the office of the family and children's  
20 ombudsman;

21 (x) Four representatives from the Indian policy advisory committee  
22 convened by the department's office of Indian policy and support  
23 services;

24 (xi) Two currently elected or former superior court judges with  
25 significant experience in dependency matters, selected by the superior  
26 court judge's association;

27 (xii) One representative from partners for our children affiliated  
28 with the University of Washington school of social work;

29 (xiii) A member of the Washington state racial disproportionality  
30 advisory committee;

31 (xiv) A foster parent; (~~and~~)

32 (xv) A youth currently in or a recent alumni of the Washington  
33 state foster care system, to be designated by the cochairs of the  
34 committee; and

35 (xvi) A parent representative who has had personal experience with  
36 the dependency system.

37 (b) The president of the senate and the speaker of the house of

1 representatives shall jointly appoint the members under (a)(ii), (xiv),  
2 and (~~(xv)~~) (xvi) of this subsection.

3 (c) The representative from partners for our children shall convene  
4 the initial meeting of the committee no later than June 15, 2009.

5 (d) The cochairs of the committee shall be the assistant secretary  
6 for the children's administration and another member selected by a  
7 majority vote of those members present at the initial meeting.

8 (2) The committee shall establish a transition plan containing  
9 recommendations to the legislature and the governor consistent with  
10 this section for the provision of child welfare services by supervising  
11 agencies pursuant to RCW 74.13.360.

12 (3) The plan shall include the following:

13 (a) A model or framework for performance-based contracts to be used  
14 by the department that clearly defines:

15 (i) The target population;

16 (ii) The referral and exit criteria for the services;

17 (iii) The child welfare services including the use of evidence-  
18 based services and practices to be provided by contractors;

19 (iv) The roles and responsibilities of public and private agency  
20 workers in key case decisions;

21 (v) Contract performance and outcomes, including those related to  
22 eliminating racial disparities in child outcomes;

23 (vi) That supervising agencies will provide culturally competent  
24 service;

25 (vii) How to measure whether each contractor has met the goals  
26 listed in RCW 74.13.360(5); and

27 (viii) Incentives to meet performance outcomes;

28 (b) A method by which the department will substantially reduce its  
29 current number of contracts for child welfare services;

30 (c) A method or methods by which clients will access community-  
31 based services, how private supervising agencies will engage other  
32 services or form local service networks, develop subcontracts, and  
33 share information and supervision of children;

34 (d) Methods to address the effects of racial disproportionality, as  
35 identified in the 2008 Racial Disproportionality Advisory Committee  
36 Report published by the Washington state institute for public policy in  
37 June 2008;

1 (e) Methods for inclusion of the principles and requirements of the  
2 centennial accord executed in November 2001, executed between the state  
3 of Washington and federally recognized tribes in Washington state;

4 (f) Methods for assuring performance-based contracts adhere to the  
5 letter and intent of the federal Indian child welfare act;

6 (g) Contract monitoring and evaluation procedures that will ensure  
7 that children and families are receiving timely and quality services  
8 and that contract terms are being implemented;

9 (h) A method or methods by which to ensure that the children's  
10 administration has sufficiently trained and experienced staff to  
11 monitor and manage performance-based contracts;

12 (i) A process by which to expand the capacity of supervising and  
13 other private agencies to meet the service needs of children and  
14 families in a performance-based contractual arrangement;

15 (j) A method or methods by which supervising and other private  
16 agencies can expand services in underserved areas of the state;

17 (k) The appropriate amounts and procedures for the reimbursement of  
18 supervising agencies given the proposed services restructuring;

19 (l) A method by which to access and enhance existing data systems  
20 to include contract performance information;

21 (m) A financing arrangement for the contracts that examines:

22 (i) The use of case rates or performance-based fee-for-service  
23 contracts that include incentive payments or payment schedules that  
24 link reimbursement to outcomes; and

25 (ii) Ways to reduce a contractor's financial risk that could  
26 jeopardize the solvency of the contractor, including consideration of  
27 the use of a risk-reward corridor that limits risk of loss and  
28 potential profits or the establishment of a statewide risk pool;

29 (n) A description of how the transition will impact the state's  
30 ability to obtain federal funding and examine options to further  
31 maximize federal funding opportunities and increased flexibility;

32 (o) A review of whether current administrative staffing levels in  
33 the regions should be continued when the majority of child welfare  
34 services are being provided by supervising agencies;

35 (p) A description of the costs of the transition, the initial  
36 start-up costs and the mechanisms to periodically assess the overall  
37 adequacy of funds and the fiscal impact of the changes, and the

1 feasibility of the plan and the impact of the plan on department  
2 employees during the transition; and

3 (q) Identification of any statutory and regulatory revisions  
4 necessary to accomplish the transition.

5 (4)(a) The committee, with the assistance of the department, shall  
6 select two demonstration sites within which to implement chapter 520,  
7 Laws of 2009. One site must be located on the eastern side of the  
8 state. The other site must be located on the western side of the  
9 state. Neither site must be wholly located in any of the department's  
10 administrative regions.

11 (b) The committee shall develop two sets of performance outcomes to  
12 be included in the performance-based contracts the department enters  
13 into with supervising agencies. The first set of outcomes shall be  
14 used for those cases transferred to a supervising agency over time.  
15 The second set of outcomes shall be used for new entrants to the child  
16 welfare system.

17 (c) The committee shall also identify methods for ensuring that  
18 comparison of performance between supervising agencies and the existing  
19 service delivery system takes into account the variation in the  
20 characteristics of the populations being served as well as historical  
21 trends in outcomes for those populations.

22 (5) The committee shall determine the appropriate size of the child  
23 and family populations to be provided services under performance-based  
24 contracts with supervising agencies. The committee shall also identify  
25 the time frame within which cases will be transferred to supervising  
26 agencies. The performance-based contracts entered into with  
27 supervising agencies shall encompass the provision of child welfare  
28 services to enough children and families in each demonstration site to  
29 allow for the assessment of whether there are meaningful differences,  
30 to be defined by the committee, between the outcomes achieved in the  
31 demonstration sites and the comparison sites or populations. To ensure  
32 adequate statistical power to assess these differences, the populations  
33 served shall be large enough to provide a probability greater than  
34 seventy percent that meaningful difference will be detected and a  
35 ninety-five percent probability that observed differences are not due  
36 to chance alone.

37 (6) The committee shall also prepare as part of the plan a

1 recommendation as to how to implement chapter 520, Laws of 2009 so that  
2 full implementation of chapter 520, Laws of 2009 is achieved no later  
3 than (~~(June)~~) December 30, 2012.

4 (7) The committee shall prepare the plan to manage the delivery of  
5 child welfare services in a manner that achieves coordination of the  
6 services and programs that deliver primary prevention services.

7 (8) Beginning June 30, 2009, the committee shall report quarterly  
8 to the governor and the legislative children's oversight committee  
9 established in RCW 44.04.220. From June 30, 2012, until January 1,  
10 2015, the committee need only report twice a year. The committee shall  
11 report on its progress in meeting its duties under subsections (2) and  
12 (3) of this section and on any other matters the committee or the  
13 legislative children's oversight committee or the governor deems  
14 appropriate. The portion of the plan required in subsection (6) of  
15 this section shall be due to the legislative children's oversight  
16 committee on or before June 1, 2010. The reports shall be in written  
17 form.

18 (9) After the two demonstration sites have been selected and are in  
19 operation, the committee shall develop recommendations for a  
20 competitive contract bidding process to allow state employees to bid  
21 for performance-based contracts for provision of case management and  
22 child welfare services if the demonstration sites are continued beyond  
23 the pilot period or further expanded under RCW 74.13.372. The  
24 committee shall report its recommendations to the governor and the  
25 legislative children's oversight committee.

26 (10) The committee, by majority vote, may establish advisory  
27 committees as it deems necessary.

28 (~~((+10+))~~) (11) All state executive branch agencies and the agencies  
29 with whom the department contracts for child welfare services shall  
30 cooperate with the committee and provide timely information as the  
31 chair or cochairs may request. Cooperation by the children's  
32 administration must include developing and scheduling training for  
33 supervising agencies to access data and information necessary to  
34 implement and monitor the contracts.

35 (~~((+11+))~~) (12) It is expected that the administrative costs for the  
36 committee will be supported through private funds.

37 (~~((+12+))~~) (13) Staff support for the committee shall be provided  
38 jointly by partners for our children and legislative staff.

1       (~~(13)~~) (14) The committee is subject to chapters 42.30 (open  
2 public meetings act) and 42.52 (ethics in public service) RCW.

3       (~~(14)~~) (15) This section expires July 1, 2015.

4       **Sec. 3.** RCW 74.13.020 and 2009 c 520 s 2 and 2009 c 235 s 3 are  
5 each reenacted and amended to read as follows:

6       For purposes of this chapter:

7       (1) "Case management" means the management of services delivered to  
8 children and families in the child welfare system, including permanency  
9 services, caseworker-child visits, family visits, the convening of  
10 family group conferences, the development and revision of the case  
11 plan, the coordination and monitoring of services needed by the child  
12 and family, and the assumption of court-related duties, excluding legal  
13 representation, including preparing court reports, attending judicial  
14 hearings and permanency hearings, and ensuring that the child is  
15 progressing toward permanency within state and federal mandates,  
16 including the Indian child welfare act.

17       (2) "Child" means a person less than eighteen years of age.

18       (3) "Child protective services" has the same meaning as in RCW  
19 26.44.020.

20       (4) "Child welfare services" means social services including  
21 voluntary and in-home services, out-of-home care, case management, and  
22 adoption services which strengthen, supplement, or substitute for,  
23 parental care and supervision for the purpose of:

24       (a) Preventing or remedying, or assisting in the solution of  
25 problems which may result in families in conflict, or the neglect,  
26 abuse, exploitation, or criminal behavior of children;

27       (b) Protecting and caring for dependent, abused, or neglected  
28 children;

29       (c) Assisting children who are in conflict with their parents, and  
30 assisting parents who are in conflict with their children, with  
31 services designed to resolve such conflicts;

32       (d) Protecting and promoting the welfare of children, including the  
33 strengthening of their own homes where possible, or, where needed;

34       (e) Providing adequate care of children away from their homes in  
35 foster family homes or day care or other child care agencies or  
36 facilities.



1 "Child welfare services" does not include child protection  
2 services.

3 (5) "Committee" means the child welfare transformation design  
4 committee.

5 (6) "Department" means the department of social and health  
6 services.

7 (7) "Measurable effects" means a statistically significant change  
8 which occurs as a result of the service or services a supervising  
9 agency is assigned in a performance-based contract, in time periods  
10 established in the contract.

11 (8) "Out-of-home care services" means services provided after the  
12 shelter care hearing to or for children in out-of-home care, as that  
13 term is defined in RCW 13.34.030, and their families, including the  
14 recruitment, training, and management of foster parents, the  
15 recruitment of adoptive families, and the facilitation of the adoption  
16 process, family reunification, independent living, emergency shelter,  
17 residential group care, and foster care, including relative placement.

18 (9) "Performance-based contracting" means the structuring of all  
19 aspects of the procurement of services around the purpose of the work  
20 to be performed and the desired results with the contract requirements  
21 set forth in clear, specific, and objective terms with measurable  
22 outcomes. Contracts shall also include provisions that link the  
23 performance of the contractor to the level and timing of reimbursement.

24 (10) "Permanency services" means long-term services provided to  
25 secure a child's safety, permanency, and well-being, including foster  
26 care services, family reunification services, adoption services, and  
27 preparation for independent living services.

28 (11) "Primary prevention services" means services which are  
29 designed and delivered for the primary purpose of enhancing child and  
30 family well-being and are shown, by analysis of outcomes, to reduce the  
31 risk to the likelihood of the initial need for child welfare services.

32 (12) "Supervising agency" means an agency licensed by the state  
33 under RCW 74.15.090, or ((an)) licensed by a federally recognized  
34 Indian tribe located in this state under RCW 74.15.190, that has  
35 entered into a performance-based contract with the department to  
36 provide case management for the delivery and documentation of child  
37 welfare services, as defined in this section.

1       **Sec. 4.** RCW 74.13.360 and 2009 c 520 s 3 are each amended to read  
2 as follows:

3       (1) No later than (~~January~~) July 1, 2011, the department shall  
4 convert its current contracts with providers of child welfare services  
5 into performance-based contracts. In accomplishing this conversion,  
6 the department shall decrease the total number of contracts it uses to  
7 purchase child welfare services from providers. The conversion of  
8 contracts for the provision of child welfare services to performance-  
9 based contracts must be done in a manner that does not adversely affect  
10 the state's ability to continue to obtain federal funding for child  
11 welfare related functions currently performed by the state and with  
12 consideration of options to further maximize federal funding  
13 opportunities and increase flexibility in the use of such funds,  
14 including use for preventive and in-home child welfare services.

15       (2) No later than (~~July 1~~) December 30, 2012:

16       (a) In the demonstration sites selected under RCW 74.13.368(4)(a),  
17 child welfare services shall be provided by supervising agencies with  
18 whom the department has entered into performance-based contracts.  
19 Supervising agencies may enter into subcontracts with other licensed  
20 agencies; and

21       (b) Except as provided in subsection (4) of this section, and  
22 notwithstanding any law to the contrary, the department may not  
23 directly provide child welfare services to families and children  
24 provided child welfare services by supervising agencies in the  
25 demonstration sites selected under RCW 74.13.368(4)(a).

26       (3) No later than (~~July 1~~) December 30, 2012, for families and  
27 children provided child welfare services by supervising agencies in the  
28 demonstration sites selected under RCW 74.13.368(4)(a), the department  
29 is responsible for only the following:

30       (a) Monitoring the quality of services for which the department  
31 contracts under this chapter;

32       (b) Ensuring that the services are provided in accordance with  
33 federal law and the laws of this state, including the Indian child  
34 welfare act;

35       (c) Providing child protection functions and services, including  
36 intake and investigation of allegations of child abuse or neglect,  
37 emergency shelter care functions under RCW 13.34.050, and referrals to  
38 appropriate providers; and

1 (d) Issuing licenses pursuant to chapter 74.15 RCW.

2 (4) No later than (~~July 1~~) December 30, 2012, for families and  
3 children provided child welfare services by supervising agencies in the  
4 demonstration sites selected under RCW 74.13.368(4)(a), the department  
5 may provide child welfare services only:

6 (a) For the limited purpose of establishing a control or comparison  
7 group as deemed necessary by the child welfare transformation design  
8 committee pursuant to RCW 74.13.368, with input from the Washington  
9 state institute for public policy, to compare the performance in  
10 achieving measurable outcomes between supervising agencies and the  
11 existing service delivery system in the two demonstration sites  
12 selected under RCW 74.13.368(4); or

13 (b) In an emergency or as a provider of last resort. The  
14 department shall adopt rules describing the circumstances under which  
15 the department may provide those services. For purposes of this  
16 section, "provider of last resort" means the department is unable to  
17 contract with a private agency to provide child welfare services in a  
18 particular geographic area or, after entering into a contract with a  
19 private agency, either the contractor or the department terminates the  
20 contract.

21 (5) For purposes of this chapter, on and after September 1, 2010,  
22 performance-based contracts shall be structured to hold the supervising  
23 agencies accountable for achieving the following goals in order of  
24 importance: Child safety; child permanency, including reunification;  
25 and child well-being.

26 (6) A federally recognized tribe located in this state may enter  
27 into a performance-based contract with the department to provide child  
28 welfare services to Indian children whether or not they reside on a  
29 reservation. Nothing in this section prohibits a federally recognized  
30 Indian tribe located in this state from providing child welfare  
31 services to its members or other Indian children pursuant to existing  
32 tribal law, regulation, or custom, or from directly entering into  
33 agreements for the provision of such services with the department, if  
34 the department continues to otherwise provide such services, or with  
35 federal agencies.

36 **Sec. 5.** RCW 74.13.364 and 2009 c 520 s 5 are each amended to read  
37 as follows:

1 Children whose cases are managed by a supervising agency as defined  
2 in RCW 74.13.020 remain under the care and placement authority of the  
3 state. The child welfare transformation design committee, in selecting  
4 demonstration sites for the provision of child welfare services under  
5 RCW 74.13.368(4), shall maintain the placement and care authority of  
6 the state over children receiving child welfare services at a level  
7 that does not adversely affect the state's ability to continue to  
8 obtain federal funding for child welfare related functions currently  
9 performed by the state and with consideration of options to further  
10 maximize federal funding opportunities and increase flexibility in the  
11 use of such funds, including use for preventive and in-home child  
12 welfare services.

13 **Sec. 6.** RCW 74.13.366 and 2009 c 520 s 6 are each amended to read  
14 as follows:

15 ~~((Performance based contracts with private nonprofit entities who~~  
16 ~~otherwise meet the definition of supervising agency shall receive~~  
17 ~~primary preference. This section does not apply to Indian tribes.))~~  
18 For the purposes of the provision of child welfare services by  
19 supervising agencies under this act, the department shall give primary  
20 preference for performance-based contracts to private nonprofit  
21 entities, including federally recognized Indian tribes located in this  
22 state, who otherwise meet the definition of supervising agency under  
23 RCW 74.13.020. In any continuation or expansion of delivery of child  
24 welfare services purchased through the use of performance-based  
25 contracts under the provisions of RCW 74.13.372, private nonprofit  
26 entities, federally recognized Indian tribes located in this state, and  
27 state employees shall receive primary preference over private for  
28 profit entities.

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