

HOUSE BILL REPORT

E2SHB 2536

As Passed Legislature

Title: An act relating to the use of evidence-based practices for the delivery of services to children and juveniles.

Brief Description: Concerning the use of evidence-based practices for the delivery of services to children and juveniles.

Sponsors: House Committee on Ways & Means (originally sponsored by Representatives Dickerson, Johnson, Goodman, Hinkle, Kretz, Pettigrew, Warnick, Cody, Harris, Kenney, Kagi, Darneille, Orwall, Condotta, Ladenburg, Appleton, Jinkins and Maxwell).

Brief History:

Committee Activity:

Early Learning & Human Services: 1/24/12, 1/27/12, 1/31/12 [DPS];
Ways & Means: 2/4/12, 2/7/12 [DP2S(w/o sub ELHS)].

Floor Activity:

Passed House: 2/13/12, 97-1.
Senate Amended.
Passed Senate: 3/1/12, 48-0.
House Refused to Concur.
Senate Amended.
Passed Senate: 3/8/12, 48-0.
Passed House: 3/8/12, 98-0.
Passed Legislature.

Brief Summary of Engrossed Second Substitute Bill

- Requires the Department of Social and Health Services (Department), by June 30, 2012, in consultation with other entities, to publish descriptive definitions for and to prepare an inventory of evidence-based, research-based, and promising practices in the areas of child welfare, juvenile rehabilitation, and children's mental health.
- Requires the Department and the Health Care Authority (HCA), by June 30, 2013, to complete a baseline assessment of the utilization of evidence-based and research-based practices in the areas of child welfare, juvenile rehabilitation, and children's mental health.

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.

- Requires the Department to prioritize assessments of the effectiveness of identified promising practices with the goal of increasing the number that may be designated as evidence-based or research-based.
- Requires the Department to develop strategies to use unified and coordinated case plans for clients who are or will likely be involved in multiple systems with the Department.
- Requires the Department and the HCA to identify and seek federal matching funds for certain components of evidence-based practices.
- Requires the Department to coordinate training across program areas for evidence-based and research-based practices and to use monitoring and quality control procedures designed to measure fidelity.
- Requires the Department and the HCA, by December 30, 2013, to report regarding recommended strategies, timelines, and costs for increasing the use of evidence-based and research-based practices for the next two biennia and to provide updated reports in 2014 and 2015.

HOUSE COMMITTEE ON EARLY LEARNING & HUMAN SERVICES

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 6 members: Representatives Kagi, Chair; Roberts, Vice Chair; Dickerson, Goodman, Johnson and Orwall.

Minority Report: Do not pass. Signed by 3 members: Representatives Walsh, Ranking Minority Member; Hope, Assistant Ranking Minority Member; Overstreet.

Staff: Linda Merelle (786-7092).

HOUSE COMMITTEE ON WAYS & MEANS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Early Learning & Human Services. Signed by 27 members: Representatives Hunter, Chair; Darneille, Vice Chair; Hasegawa, Vice Chair; Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Orcutt, Assistant Ranking Minority Member; Carlyle, Chandler, Cody, Dickerson, Haigh, Haler, Hinkle, Hudgins, Hunt, Kagi, Kenney, Ormsby, Parker, Pettigrew, Ross, Schmick, Seaquist, Springer, Sullivan and Wilcox.

Staff: Andy Toulon (786-7178).

Background:

Evidence-based practices are generally defined as those programs or policies that are supported by a rigorous outcome evaluation clearly demonstrating effectiveness. Since the

mid-1990s, the Washington State Institute for Public Policy (WSIPP), the research arm of the Legislature, has undertaken comprehensive reviews of evidence-based programs. It has examined programs and policies in the juvenile and adult criminal justice arenas, as well as in other public policy areas, including early childhood education, child welfare, children's and adult mental health, and substance abuse. A "research-based" practice has some research demonstrating effectiveness, but it does not yet meet the standard of an evidence-based practice. A "promising practice" does not meet evidence-based standards but presents potential for becoming a research-based practice.

In 2007 the Legislature established the University of Washington Evidence Based Practice Institute (EBPI) which collaborates with the WSIPP and other entities to improve the implementation of evidence-based and research-based practices by providing training and consultation to mental health providers and agencies that serve the needs of children. The EBPI also provides oversight of implementation of evidence-based practices to ensure fidelity to program models.

Medicaid.

In 2011 the Health Care Authority (HCA) was designated as the single state agency for the administration and supervision of Washington's Medicaid program.

Summary of Engrossed Second Substitute Bill:

A new chapter is created in Title 43 regarding the use of evidence-based and research-based prevention and intervention services in the areas of children's mental health, juvenile rehabilitation, and child welfare. "Prevention and intervention service" is defined as services and programs for children and youth and their families that are specifically directed to address behaviors that have resulted or may result in truancy, abuse or neglect, out-of-home placements, chemical dependency, substance abuse, sexual aggressiveness, or mental or emotional disorders.

Description and Inventory of Practices.

By September 30, 2012, the Department of Social and Health Services (Department), in consultation with the WSIPP, the EBPI, a university-based child welfare partnership and research entity, other national experts in the delivery of evidence-based services, and organizations representing Washington practitioners, is required to publish descriptive definitions for and prepare an inventory of evidence-based, research-based, and promising practices for prevention and intervention services in the areas of child welfare, juvenile rehabilitation, and children's mental health services. The inventory must be periodically updated as more practices are identified.

In the identification of evidence-based and research-based services, the WSIPP and the EBPI must consider available systemic evidence-based assessment of a program's efficacy and cost effectiveness and attempt to identify assessments that use valid and reliable evidence. The Department must prioritize the assessment of promising practices that it has identified with the goal of increasing the number of promising practices that meet the standards for evidence-based or research-based practices.

Baseline Assessment of Utilization.

By June 30, 2013, the Department and the HCA must complete a baseline assessment of the utilization of evidence-based and research-based practices in the areas of child welfare, juvenile rehabilitation, and children's mental health services. The assessment must include prevention and intervention services provided through Medicaid fee-for-service and Healthy Options managed care contracts. The assessments must include estimates of:

- the number of children receiving each service;
- the total amount of state and federal funds expended for juvenile rehabilitation and child welfare services;
- the number and percentage of encounters for children's mental health services provided to children served by the Regional Support Networks and for children receiving services through Medicaid fee-for-service or Healthy Options;
- the relative availability of the service in different regions in the state; and
- the unmet need for each service, to the extent it can be assessed.

Coordinated Care and Monitoring Procedures.

The Department must develop strategies to use unified and coordinated case plans for children, youth, and their families who are or will likely be involved in multiple systems within the Department. It must also use monitoring and quality control procedures designed to measure fidelity with evidence-based and research-based prevention and treatment services, including the use of existing data reporting and system of quality management processes at the state and local levels. The Department must carry out these responsibilities in consultation with:

- a university-based evidence-based practice institute entity in Washington;
- the Washington Partnership Council on Juvenile Justice;
- the Child Mental Health Systems of Care Planning Committee;
- the Children, Youth, and Family Advisory Committee;
- a university-based Child Welfare entity in Washington;
- Regional Support Networks;
- the Washington Association of Juvenile Court Administrators; and
- the WSIPP.

Matching Funds.

The Department and the HCA must identify components of evidence-based practices for which federal funds might be claimed and seek federal matching funds for such components.

Training.

The Department must efficiently use funds to coordinate training across program areas, and training for child welfare employees must be delivered by the University of Washington School of Social Work in Coordination with the University of Washington Evidence Based Practice Institute.

Implementation of Act.

The Department and the HCA, in implementing this act, are not required to take actions in conflict with Presidential Executive Order 13175 or that adversely impact tribal-state consultation protocols or contractual relations, to redirect funds in a manner that conflicts with the Department's Section 1915(b) Medicaid mental health waiver or that would substantially reduce Medicaid funding or impair access to services for a substantial number of Medicaid clients.

The Department is not required to take actions inconsistent with its obligations or authority pursuant to a court order or agreement in the context of a lawsuit.

Reports.

By December 30, 2013, the Department and the HCA must report to the Governor and to the Legislature regarding recommended strategies, timelines, and costs for increasing the use of evidence-based and research-based practices. The report must include recommendations for substantial increases above the baseline assessment for the 2015-2017 and the 2017-2019 biennia. The recommendations for increases must be relative to the estimates of the number of persons served, service encounters, availability of services, unmet need, and funding expenditures contained in the June 2013 report. They must also include strategies to identify programs that are effective with ethnically diverse clients and to consult with tribal governments and experts within diverse communities.

The report must distinguish between a reallocation of existing funding to support recommended strategies and new funding necessary to effect increases in the use of evidence-based and research-based practices. Subsequent reports with updated recommendations are required by December 30, 2014, and by December 30, 2015.

If the Department or the HCA anticipates that it will not meet the levels recommended in the reports to the Governor and the Legislature, the relevant entity must report to the Legislature by November 1 of the year preceding the biennium. The report must include identified impediments, current and anticipated performance levels, and strategies to improve performance.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony (Early Learning & Human Services):

(In support) This bill represents reform in the way that treatment services are provided to children through the Department of Social and Health Services. It is about accountability to the Legislature, tax payers, and the children who receive the services. Even though much is known about effective practices, little is done to implement those practices. In the last 15 to 20 years, it has been clear that some practices work better than others. There is an

opportunity to maintain children in their homes and to train professionals. This will increase the opportunity for children to be successful, to provide accountability for the state, and to make a great leap forward. In the past four years, there has been a systematic effort to increase the opportunity to address the mental health needs of youth. One of the strategies that this bill utilizes is more coordination. Under the bill, the strategy is for the agencies to combine and increase their ability to purchase services. With the outcomes from the use of evidence-based practices, the result will be a significant benefit to the tax payer.

(In support with concerns) The training and fidelity requirements of the bill will require additional expenditures,

(Neutral) It is not clear which services are subject to the requirements of the bill. It is important to make sure that the requirements under this bill do not decrease the number of children and families served. The roles of the WSIPP and the EBPI need to be clarified. Definitions for research-based and promising practices should be added to the bill.

(With concerns) The current structure used by juvenile courts in Washington is nationally recognized, and it has a quality assurance component. Evidence-based practices do not stand alone. A risk assessment is done to determine whether a youth is eligible for services, and there must be qualified persons to deliver those services. Fewer than one-half of juveniles receive evidence-based services, and there are not enough evidence-based practices to cover all children. Many evidence-based practices are not covered by Medicaid. It is not clear how the required evidence-based practices will be funded.

(Opposed) None.

Staff Summary of Public Testimony (Ways & Means):

(In support) The bill acknowledges that during these times of severe revenue shortfalls, dollars must be spent on treatments with evidence that show they work. In the juvenile justice system, hundreds of millions of dollars have been saved over the last 15 years in reduced institutional costs through evidence-based practices. This bill will also achieve savings in foster care, court hearings, and criminal justice for children served in the child welfare and children's mental health systems.

Kentucky, Tennessee, and Oregon have also passed evidence-based practice legislation, though somewhat narrower in scope. The state can no longer afford to pay for business as usual which costs parents and children a lot of suffering, but also costs the taxpayers in paying for programs that do not work. Evidence-based practices have better outcomes and save taxpayer dollars. Resources from national philanthropies can be used to pay for the costs of the bill. The importance of ongoing fidelity monitoring and training to ensure the evidence-based practices are implemented adequately is recognized in the bill.

(With concerns) It is not clear what the baseline is or how much of the child welfare and children's mental health dollars are spent on evidence-based practices. The fiscal note indicates that 10 percent of the funding spent on child welfare services will go to consultation and oversight and it is important to consider the impact this might have on services that may not be considered evidence-based but are achieving positive outcomes. It is unclear what the

role of the Evidence-Based Council created by the bill will be in relation to other reform efforts for the child welfare system.

By definition, training costs, higher staffing ratios, and more intensive services associated with evidence-based practices do cost more. As costs are increased in these programs and resources continue to shrink, it will require taking away services in other programs and only those with the highest needs will be served. The proposed cuts in the Governor's budget, on top of reductions which have already been made, raise questions on how this will be paid for. Agencies will need help with training costs. There are economy-of-scale issues in rural areas where there may not be enough of a program base to support an evidence-based practice program. There is a conflict in the bill with regard to federal law and requirements for allocating indirect costs.

Forcing evidence-based practices into treatment plans is not consistent with Wraparound, which is a proven cost effective model. For those with multiple and complex needs, there are no evidence-based practices to meet those needs, so they will be made to fit an evidence-based practice rather than using an approach that best fits the needs of the child. Individualized care is a more cost effective approach. Mandating these programs is prohibitively expensive in terms of ongoing staff training, credentialing and supervision. This bill is too expensive and restrictive and it is critical that child welfare reforms are both flexible and individualized.

The bill recognizes the role of juvenile courts in attempting to effectively run evidence-based practices. There are positive results from the use of evidence-based practices including a 48 percent reduction in juvenile offender filings from 1998 through 2010, and a 42 percent reduction in bed usage over the last decade. However, there are non-evidence-based practices that work in concert with the evidence-based practices and these should not be undermined. The work that the Washington State Center for Court Research does should be retained and it looks like that issue may be addressed in the proposed second substitute bill.

(Opposed) None.

Persons Testifying (Early Learning & Human Services): (In support) Representative Dickerson, prime sponsor; and Dr. Eric Trupin, University of Washington School of Social Work Evidence Based Practice Institute.

(In support with concerns) Brian Carroll, Washington Coalition for Children in Care.

(Neutral) Roxanne Lieb, Washington State Institute of Public Policy; and Dana Phelps, Department of Social and Health Services.

(With concerns) Yoshe Revelle; Tom McBride and Shelly Maluo, Washington Juvenile Court Administrators; Rashi Gupta, Washington State Association of Counties; and Gregory Robinson, Washington Community Health Council.

Persons Testifying (Ways & Means): (In support) Representative Dickerson, prime sponsor; and Mary Fischer, Alliance for Youth of Pierce County Evidence-Based Programs Committee, and Institute for Family Development.

(With concerns) Laurie Lippold, Children's Home Society; Donna Christensen, Washington State Catholic Conference; Gregory Robinson, Washington Community Mental Health Council; Tom McBride, Washington Association of Juvenile Court Administrators; and Rashi Gupta, Washington State Association of Counties.

Persons Signed In To Testify But Not Testifying (Early Learning & Human Services):
None.

Persons Signed In To Testify But Not Testifying (Ways & Means): None.