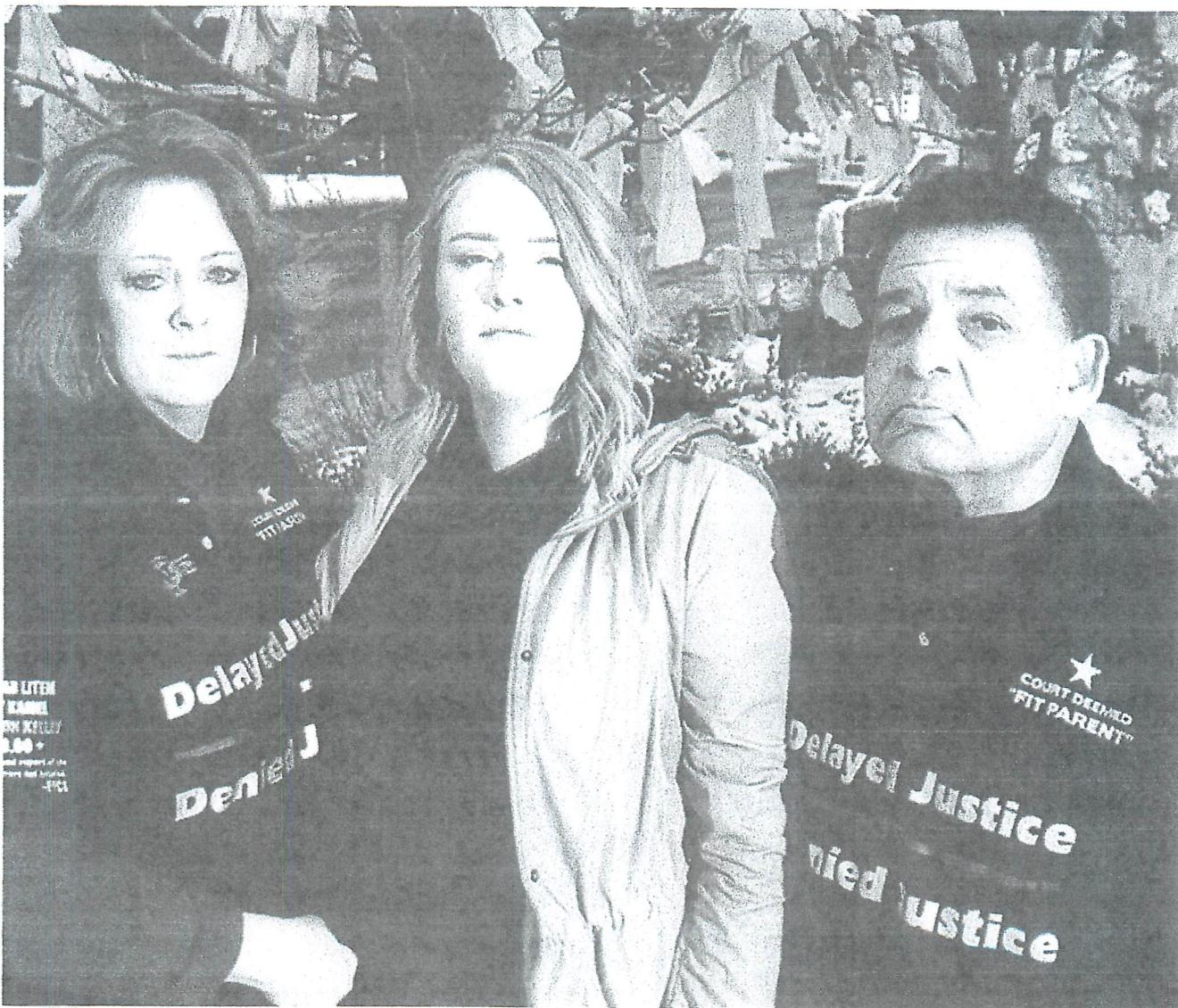


INTRODUCTION

How two Spokane parents lost their son to friends they once trusted

By Wilson Criscione



Young Kwak

Ron and Teresa Simon, pictured here with Teresa's daughter Megan, have been fighting to get their son back since 2015.



Teresa and Ron Simon know who took their son.

It wasn't a stranger. It was two people the Simons know well, people they once considered family.

But now, the Simons can't get their son back from them.

"He's missing. My son is missing," Teresa Simon says. "We never agreed to give him away."

It's been nearly three years since the Simons' son, who the *Inlander* will refer to as Bruce, his middle name, has been home with his biological parents. The 16-year-old lives with people he now considers his real parents, according to court filings. Their names are Doris Strand and Wayne Janke.

Strand and Janke have been part of his life, in one way or another, since the day Bruce was born. But in 2015, they gained custody of him and simultaneously blocked his biological parents from being involved in his life. They did so by taking advantage of Washington state's relatively loose laws on who can serve as a child's parent.

They argued that Bruce's biological parents were not fit to raise him. And they argued they were Bruce's "de facto" parents, a legal definition in Washington that grants nonbiological parents equal rights as biological parents.

The situation is a new twist on a question that Washington has been trying to answer for two decades: What constitutes a parent in the eyes of the law?

In Janke and Strand's view, granting rights to nonparents is necessary to provide children like Bruce with the home they deserve. "He calls us 'Mom' and 'Dad,'" Janke tells the *Inlander*. "He calls our home his home."

But for the Simons, it's only been a way to take Bruce and hide him behind a wall of legalese, despite a judge finding that they are indeed "fit" parents.

"It's legalized abduction," Teresa says.

GIVE AND TAKE

Teresa and Ron Simon's only child together was born at Deaconess Medical Center in September 2001. As Teresa recovered from a C-section, it took

hours before she could hold her son. Elsewhere in the hospital, family and friends gathered, waiting eagerly to see the baby.

And Teresa says that nobody was more eager than Doris Strand.

At the time, Teresa didn't know Strand very well. She was Ron's close friend, someone he had met in the late 1970s when he was an assistant manager at Albertsons and Strand was a checker. Teresa thought it a bit strange that Strand was there for so long on the day of her son's birth, but she says she didn't want to make it a big deal. Teresa, who has bipolar disorder that she manages, says she didn't want to give anyone an excuse to take her son from her.

"I didn't want to make a scene, because of this disorder," Teresa says.

For Strand, it was the beginning of a long, bonded relationship with Bruce.

Strand declined to comment for this article, saying she doesn't want to trouble Bruce further. But in court declarations, she and Wayne Janke, who she lives with, portray themselves as people who began to take care of Bruce as an infant because the Simons didn't care. She describes moments where she felt the Simons ignored their son. She wanted to take it upon herself to provide him with the care she thought he was missing.

"I made it my mission in life to give [Bruce] a life of love and joy," she writes in court documents.

The Simons, who both worked and managed rental properties, admit that Strand and Janke helped to take care of Bruce. In the Simons' view, Janke and Strand were something like grandparents for him — in the role they played, not because they're any older than the Simons. They looked after him when the Simons couldn't, bought him gifts and took him skiing and on hunting and camping trips. Teresa and Ron say they thought the relationship was good for their son. They wanted him to do those things.

"We didn't say, 'Here, take my kid,'" Teresa says.

The Simons, feeling Bruce would be better served in the Central Valley School District instead of Spokane Public Schools, used Strand and Janke's

address for school records — a move Strand and Janke would later use as evidence in court that he resided there. Teachers would later report in court that they thought Strand and Janke were Bruce's parents.

As years passed, Bruce stayed with Strand and Janke more. Sometimes Teresa picked him up from school, and sometimes Strand did. He did karate with his father, Ron, three nights a week. But he also did Cub Scouts, which Strand or Janke would help with. He'd often stay with them on weekends if they were going skiing. Everything was always with the Simons' permission, they say.

For holidays, they'd all gather together. Christmas was always held in the Simons' household.

But there were times when the Simons thought Strand and Janke went too far, especially around 2012 when the Simons say Janke inherited a significant sum of money. The trips became more extravagant — Disneyland, the Bahamas. The gifts became more and more expensive — an all-terrain vehicle, a jet ski. And often, the Simons didn't know they were buying things for their son.

"Everything was always over the top," Teresa says.

Megan Juneau, Teresa's daughter and Bruce's older sister, didn't benefit from the same kind of relationship with Strand and Janke. Juneau, now a 23-year-old student at Eastern Washington University, says she didn't know Janke and Strand until her younger brother was born. She says she was confused why Bruce would say mean things about her and his parents after being with Strand and Janke.

And she says Janke and Strand never were interested in her life like they were with Bruce.

"I didn't understand why I wasn't a part of it," Juneau says.

In 2015, Janke booked a trip to take Bruce to Hawaii with him for spring break. The Simons say they didn't give permission, and when they found out, they tried to set stricter boundaries on Bruce's time with them. In a court

declaration filed in 2015, Janke laments Teresa's efforts to restrict the time and cancel the trip to Hawaii.

"The tickets are already purchased and we were ready to go when his biological mother took him from us and now refuses to let us see him," Janke says in the filing.

But it was Janke and Strand who ended up taking Bruce. In March 2015, Bruce filed a Child in Need of Services (or CHINS) petition in Spokane County Superior Court, alleging abuse and an unstable household at the Simons, focusing on Teresa in particular. That petition was quickly dismissed, and an assessor from the state's Department of Social and Health Services found the abuse allegations unfounded and recommended reunification with the Simons. She later testified that Bruce was "coached" in making the allegations.

Instead, on March 31, 2015, Janke and Strand filed different petitions that promised for a longer, more drawn-out process. They argued that they were the de facto parents for Bruce, functioning as his real parents for his entire life. Separately, they argued the Simons were not "fit" parents to take care of Bruce. And the Simons were hit with a restraining order.

Bruce went on the Hawaii trip with Janke. He hasn't been home with the Simons since.

'OLDEST FUNDAMENTAL LIBERTY'

Until recent decades, there had been little reason to question who the legal parents of a child were. Put simply, the biological mother and father of a child held legal and constitutional rights as the parents.

But it's not always so simple. Does a man who donated sperm to a same-sex couple for artificial insemination deserve parental standing? Should a stepmother who raised a child from birth in the absence of a biological mom be considered a parent?

The state of Washington, more than perhaps any other state, has been liberal in granting parental rights to nonbiological parents.

In 2000, the U.S. Supreme Court struck down a Washington state law that the court said violated the rights of parents. The central issue was whether or not grandparents had the right to visit their grandchild if it was in their grandchild's best interest, even if the actual parents objected. State law allowed for such visitations, but the U.S. Supreme Court objected.

"The interests of parents in the care, custody and control of their children," writes Justice Sandra Day O'Connor, "is perhaps the oldest of the fundamental liberty interests recognized by this court."

But five years later, the Washington Supreme Court ruled on a different kind of issue. A lesbian couple had a baby together by artificial insemination, but eventually the two split up. Both were the child's parent, but only one the biological parent. The state Supreme Court ruled that the nonbiological parent was a de facto parent and had the same rights as a birth parent when it comes to visitation.

The decision set up the de facto parentage doctrine in Washington state. And it outlined four factors that courts must consider when determining a de facto parent. A couple like Janke and Strand, for example, could permanently have the same rights as the Simons if: The Simons permitted them to have a parent-like relationship with Bruce; Bruce lived with them; they assumed obligations of parenthood without expecting financial compensation; and if they had an established, bonded, dependent relationship with Bruce.

Since the 2005 case deciding the rights of the separated lesbian couple, the de facto doctrine has further evolved. The courts allowed for de facto status to apply to stepparents even when there were already two fit, legal parents, for example. And it may not matter if the alleged de facto parents are blood-related to the child at all, says Scott Marlow, a Washington attorney who handles parental custody cases.

"The court has clearly indicated that anybody can become a de facto parent as long as they meet the four-prong test," Marlow says.

Some states have followed Washington's direction in giving parental rights to nonbiological parents, while others have rejected it. Idaho recognizes the de facto parent doctrine. Oregon has enacted a statute that allows nonparents to petition for custody or guardianship against the parents' wishes under certain

criteria. California passed a law allowing for a legal third parent. Wyoming, however, rejected the de facto doctrine.

The de facto law isn't the only way nonparents can gain parental custody of a child. A nonparent can also file a "nonparental custody petition" that separates a child from their biological parents temporarily. For that to happen, a court must find that the biological parents are "unfit" and can't meet the child's needs, or that placement with the biological parents would result in "detriment" to the child.

"It's still a new and developing area of law," Marlow says. "A lot of people agree, but a lot of people don't agree with it."

It's meant to protect children, Marlow says. If a child has developed a relationship with someone he or she saw as a parent, it could be harmful to take that adult out of the child's life. And it can help them live in a stable home.

But Shayla McKee, a family law attorney in Washington, says few states grant nonparents rights as liberally as Washington.

"The vast majority of states do not agree with our idea of de facto parentage," McKee says. "The trend definitely is being more liberal in establishing who is the parent of a child and taking a broader look to acknowledge that stepparents, or other family members, can have a right to have a say."

McKee wonders whether the federal courts will eventually say Washington has violated parents' constitutional rights. She goes back to the U.S. Supreme Court ruling that the parent-child relationship is a "fundamental liberty."

The debate has been central to the case between the Simons and Janke and Strand. Janke and Strand filed both a de facto petition and a nonparental custody petition. The legal battle over both has lasted years, as Bruce gets closer to becoming an adult.

Janke argues that the law has served kids like Bruce well. More kids should live with who they consider their real parents, despite who the biological parents are, Janke argues.

"I don't care how biological you are. When the child bonds, *that's* the bond," Janke says. "[The Simons] didn't give him a chance, because they didn't care."

But for the Simons, the ongoing legal dispute — even when rulings are in their favor — may have already damaged any chance for a normal relationship with their son.

STUCK IN THE MIDDLE

It's the middle of July 2017. For most 15-year-olds, it's a perfect day for summer vacation. But for Bruce, it's a day in court.

"I want you to listen to me, OK? Is that alright?" asks Superior Court Judge Maryann Moreno.

"Yes," he says.

"You have four people that love you very much. You know that, right?"

Bruce nods.

Moreno explains what she had just ruled — that the Simons were fit parents, and that he needs to reunify with them. He nods.

She says both he and his parents need counseling. He nods.

After that, she says, there will be visits with his dad at the end of August. He nods.

And then, with tears trickling down his face, he's handed a box of tissues and leaves the courtroom.

"This is going to be a tough one," Moreno says after he's gone. "But we're going to make — it's got — we've got to make it work. We've got to make it work."

The *Inlander*'s repeated attempts to reach Bruce, through Strand, Janke, and Bruce's guardian ad litem, Kimberly Kamel, were unsuccessful. The above exchange is the only time his voice is heard in the case. But according to his guardian ad litem and declarations and other court filings, Bruce doesn't want to return to his biological parents. And after nearly three years away from them, he may never want to.

"[Bruce] will never have anything to do with those people as long as he walks the face of the earth," Janke says.

After the Hawaii trip and the petitions for custody in 2015, it took a year and a half for a ruling to be made on whether or not Strand and Janke were, in fact, his de facto parents. Bruce stayed in the custody of Janke and Strand that whole time.

In fall of 2016, Moreno issued her ruling. Never had she seen a de facto parentage case with these circumstances. In the end, she sided with the Simons. It's their fundamental right to make decisions and care for their child, she ruled. She noted that a number of statements Strand and Janke filed in their initial declarations were flat-out untrue. And she honed in on the allegation that Teresa abused drugs, mentally and physically abused Bruce and was mentally ill and unfit to be a Bruce's parent.

"All of those allegations were untrue other than the fact that she suffers from bipolar disorder, which many people in our community have, and it's controlled," Moreno says.

In her rulings, Moreno says Strand and Janke were involved with "some level of coaching" of Bruce. She noted "an attempt to alienate" him from his biological parents. (Janke and Strand deny both allegations.) She reminded Strand that she is not, in fact, Bruce's mother.

At the same time, Moreno questions why the Simons were OK with Strand and Janke spending so much time with their son when he grew up.

"No adult here is without fault," Moreno says. "All four of you have really caused great harm to this child."

For the Simons, winning the de facto case was only half the battle. They still had to prove that returning their son to their care would not cause him detriment. So Bruce stayed with Strand and Janke.

In the months between court hearings, Teresa did anything she could to tell the world she lost her son. She posted on Facebook. She messaged the sheriff. She protested in front of the courthouse. She put up cameras in her house, just in case she might be able to use some footage to defend herself in court.

"She has completely submerged in this case," says Juneau of her mother. "It has been absolutely devastating for our family."

In July 2017, Moreno ruled the Simons are "fit" parents, but the judge also expressed concerns with Teresa's public behavior, wondering if it further hurt Bruce. She deferred her official ruling on nonparental custody, opting to try for a slow reunification, first with Ron, then with Teresa. That's when Moreno brought Bruce into the courtroom, and Bruce walked out with tears.

Moreno decided it would cause detriment for Bruce, who has been estranged from his biological parents for years, to return to them.

McKee, the attorney, says she's never seen a judge find the parents "fit" and still not return the child.

"It seems to fly in the face of our laws," McKee says.

In September, Bruce turned 16. His visits with Ron in public chain restaurants like Starbucks or McDonalds didn't go well. Then they stopped altogether.

Later, in January 2018, Moreno expressed her disbelief: "If the Simons didn't recognize it, the ball was in their court," she says. But the Simons contend that it's not their fault. They tried to set up visits, they say, but nobody else was cooperating. Allegations have been thrown both ways, each side blaming the other, or the court, for reunification not working. Nobody can agree on a counselor to facilitate reunification between the Simons and their son. The Simons say Strand continues to alienate Bruce, and the court says the Simons are failing to follow the instructions.

And Teresa continues to bury herself in legal paperwork, trying to break through the wall. She blames Strand. She blames the judge. She blames the guardian ad litem. She blames her attorneys. She blames corruption. She blames the system, as her own son continues to live with someone else.

But through it all, she never blames her son.

"[Bruce]," she says, "is a victim in this."

'LEFT ALONE'

Each day, Teresa Simon walks outside and ties a yellow ribbon, handmade from Dollar Tree tablecloths and pipe cleaners, to a tree in front of her home in East Central Spokane. There's one for each day her son has been gone.

By now, there are more than a thousand ribbons. With another 500 or so, Bruce will be 18, his childhood a thing of the past.

"My son is coming home, and I don't care who thinks they're gonna do what they're gonna do," Teresa says.

Yet as Janke tells it, Bruce is sick of the legal battles. The kid "just wants to be left alone."

"He just wants to be a kid again," Janke says. "It's so sad, and he's just a great young man."

The battle is far from over, it seems. Each step in the process seems to drag on. Moreno's ruling that Strand and Janke are not "de facto" parents is being appealed. The Simons still can't prove that their son coming back would be in his best interest.

Ron and Teresa can't accept any of it. On a Wednesday in February, Ron and Teresa sit at the dinner table. Stacks of paperwork stand between them. They discuss how to get their son back, and they're running out of answers. They want to see changes in Washington's family courts so that no other parents lose their son.

In the other room, there's a Christmas tree still standing two months past the holiday. The lights are on and the ornaments are hanging. Underneath are presents, perfectly wrapped in bright red paper, and unopened. ♦

In this year's legislative session, two bills would clarify state law on parental rights, but mostly follow the direction of state and federal courts on parental custody in recent decades. The first, Senate Bill 6037, would make Washington one of the first states to adopt the 2017 Uniform Parentage Act, which, in part, codifies language on what a "de facto" parent is. The second, Senate Bill 5598, would grant relatives, such as grandparents, the right to seek visitation with a child through the courts.

SB 6037, which passed both the Senate and the House, stirred debate in the Legislature because it would allow a surrogate mother to be paid more than the costs of medical and other expenses. But the bill included other provisions, like putting into state statute what constitutes a "de facto" parent.

Washington courts have ruled that a nonbiological parent can be a de facto parent if they meet certain criteria. A majority of states have some sort of similar law, but Washington is one of several states that grants de facto parents the same rights as a biological parent — an interpretation some disagree with.

The sponsor of the bill, Sen. Jamie Pedersen, D-Seattle, says the bill would only put into law what the courts have already decided regarding de facto parents. In order to become a de facto parent, a person must:

- Reside with the child as a member of the household for a significant period of time
- Engage in consistent caretaking of the child
- Undertake parental responsibilities without expecting financial compensation
- Establish a bonded, dependent and parental relationship with the child
- Have the relationship fostered by another parent
- Prove the relationship is in the best interest of the child

Washington is one of three states that has introduced the 2017 Uniform Parentage Act into its Legislature this year.

The second bill that was also sponsored by Pedersen, Senate Bill 5598, would address a state statute that was struck down by the U.S. Supreme Court in 2000. That decision centered around whether or not grandparents had the right to visit their grandchild if it was in the child's best interest, despite parent objections. It's a situation that can arise if one parent dies, for instance, but the grandparents still wish to maintain a relationship with the child.

The Supreme Court, in ruling against the law that allowed for that, wrote that parental custody and control of their children "is perhaps the oldest of the fundamental liberty interests recognized by this court."

But ever since then, says Pedersen, the state has not had any statute addressing grandparent visitation.

"We are the only state in the country that doesn't have an effective visitation statute," Pedersen says.

THE BILL, WHICH HAS PASSED THE SENATE, WOULD ALLOW FOR GRANDPARENTS OR RELATIVES TO PETITION FOR COURT-ordered visitation with a child. Pedersen says it avoids the pitfalls that led the Supreme Court to strike down the law in 2000. For example, instead of any person at any time being able to come into court and petition for visitation rights, SB 5598 restricts it to only relatives who have an ongoing relationship with the child. The relatives must also demonstrate that denying visitation would harm the child.

"It's way narrower than the old statute," Pedersen says.

You can see the text of each bill [here](#) and [here](#).

Tags: de facto parents , child custody , washington , jamie pedersen , parental rights , News , Image



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TRENDING

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SB 5598 - 2017-18

Granting relatives, including but not limited to grandparents, the right to seek visitation with a child through the courts.

Sponsors: Pedersen, Angel, Rolfes, King, Darneille, Bailey, Brown, Mullet, Carlyle, Braun, Hobbs, Palumbo, Wellman, Keiser, Honeyford, Ranker, Nelson, Liias, McCoy, Billig, Cleveland, Hasegawa, Frockt, Conway, Rivers, Saldaña, Kuderer, Chase, Hunt, Fain, Walsh, Van De Wege, Rossi, Zeiger, Warnick, Becker, Takko, Wilson, L., Schoesler, Hawkins

Companion Bill: HB 2117

Bill History

2017 REGULAR SESSION

Jan 31 First reading, referred to Law & Justice.

2017 1ST SPECIAL SESSION

Apr 24 By resolution, reintroduced and retained in present status.

2017 2ND SPECIAL SESSION

May 23 By resolution, reintroduced and retained in present status.

2017 3RD SPECIAL SESSION

Jun 21 By resolution, reintroduced and retained in present status.

2018 REGULAR SESSION

Jan 8 By resolution, reintroduced and retained in present status.

Jan 9 Public hearing in the Senate Committee on Law & Justice at 10:00 AM.

Jan 18 Executive action taken in the Senate Committee on Law & Justice at 10:00 AM.

LAW - Majority; do pass.

Minority; do not pass.

Jan 19 Passed to Rules Committee for second reading.

Jan 25 Placed on second reading by Rules Committee.

Rules suspended. Placed on Third Reading.

Third reading, passed; yeas, 44; nays, 5; absent, 0; excused, 0.

IN THE HOUSE

Jan 29 First reading, referred to Judiciary (Not Officially read and referred until adoption of Introduction report).

Feb 15 Public hearing in the House Committee on Judiciary at 1:30 PM.

Feb 22 Executive action taken in the House Committee on Judiciary at 12:30 PM.

JUDI - Majority; do pass with amendment(s).

Minority; do not pass.

Feb 23 Referred to Appropriations.

Feb 24 Public hearing in the House Committee on Appropriations at 10:00 AM.

- Feb 26 Executive action taken in the House Committee on Appropriations at 11:00 AM.
APP - Majority; do pass with amendment(s) by Judiciary.
Minority; do not pass.
Minority; without recommendation.
Referred to Rules 2 Review.
- Feb 27 Placed on second reading by Rules Committee.
- Mar 2 Amendment ruled beyond the scope and object of the bill.
Committee amendment(s) adopted with no other amendments.
Rules suspended. Placed on Third Reading.
Third reading, passed; yeas, 53; nays, 45; absent, 0; excused, 0.
Vote on third reading will be reconsidered.
Third reading, passed; yeas, 56; nays, 42; absent, 0; excused, 0.

IN THE SENATE

- Mar 6 Senate concurred in House amendments.
Passed final passage; yeas, 43; nays, 6; absent, 0; excused, 0.
- Mar 8 President signed.

IN THE HOUSE

- Mar 8 Speaker signed.

OTHER THAN LEGISLATIVE ACTION

- Mar 9 Delivered to Governor.
- Mar 22 Governor signed.
Chapter 183, 2018 Laws.
Effective date 6/7/2018.

SB 6037 - 2017-18

Concerning the uniform parentage act.

Sponsors: Pedersen, Walsh, Takko, Fain, Rivers, Billig, Ranker, Cleveland, Kuderer, Van De Wege, Hobbs, Llias, Palumbo, Frockt, Hasegawa, Mullet, Hunt, Saldaña, Rolfs, Dhingra, Carlyle, Darneille, Chase, Conway, Nelson, Wellman, McCoy, Keiser

By Request: Uniform Law Commission

Bill History

2018 REGULAR SESSION

- Dec 20 Prefiled for introduction.
Jan 8 First reading, referred to Law & Justice.
Jan 16 Public hearing in the Senate Committee on Law & Justice at 10:00 AM.
Jan 25 Executive action taken in the Senate Committee on Law & Justice at 10:00 AM.
LAW - Majority: 1st substitute bill be substituted, do pass.
Minority; do not pass.
Minority; without recommendation.
Jan 26 Passed to Rules Committee for second reading.
Feb 2 Placed on second reading by Rules Committee.
Feb 7 **1st substitute bill substituted (LAW 18).**
Floor amendment(s) adopted.
Rules suspended. Placed on Third Reading.
Third reading, passed; yeas, 27; nays, 21; absent, 0; excused, 1.

IN THE HOUSE

- Feb 9 First reading, referred to Judiciary (Not Officially read and referred until adoption of Introduction report).
Feb 21 Public hearing in the House Committee on Judiciary at 8:00 AM.
Feb 22 Executive action taken in the House Committee on Judiciary at 12:30 PM.
JUDI - Majority; do pass.
Minority; do not pass.
Feb 23 Referred to Rules 2 Review.
Feb 26 Rules Committee relieved of further consideration. Placed on second reading.
Feb 27 Rules suspended. Placed on Third Reading.
Third reading, passed; yeas, 50; nays, 47; absent, 0; excused, 1.

IN THE SENATE

- Feb 28 President signed.

IN THE HOUSE

- Feb 28 Speaker signed.

OTHER THAN LEGISLATIVE ACTION

Feb 28 Delivered to Governor.
Mar 6 Governor signed.
Chapter 6, 2018 Laws.
Effective date 1/1/2019.

EXHIBIT 1

January 2012

TRANSFORMING CHILD WELFARE IN WASHINGTON STATE: PERFORMANCE-BASED CONTRACTING

INTRODUCTION

The 2009 Washington State Legislature passed Second Substitute House Bill 2106 (2SHB 2106),¹ intended to reform the delivery of child welfare services in Washington State through a two-phase process. The bill requires the Children's Administration (CA) of the Department of Social and Health Services (DSHS) to:

1. Convert existing contracts with service providers to performance-based contracts and reduce the overall number of contracts (Phase 1); and
2. Set up two demonstration sites to compare child welfare case management by private agencies with child welfare case management by DSHS employees (Phase 2).

The legislation also established the Child Welfare Transformation Design Committee (Committee) to advise DSHS in this effort. The Washington State Institute for Public Policy (Institute) was directed to report on the transition to performance-based contracts; and, in 2015, evaluate the outcomes of case management performed by private agencies compared with that of DSHS employees.

This initial report to the legislature and governor provides a brief description of the legislation and an overview of the progress to date in converting and consolidating CA contracts. The Institute will provide a final report on performance-based contracts in June 2012, and an evaluation report of the demonstration project in April 2015.

Summary

The 2009 Washington State Legislature passed 2SHB 2106, directing the Children's Administration (CA) of the Department of Social and Health Services (DSHS) to:

1. Convert contracts with child welfare service providers to performance-based contracts and reduce the overall number of contracts (Phase 1); and
2. Set up two demonstration sites to compare child welfare case management by private agencies with case management by DSHS employees (Phase 2).

The legislation also established the Child Welfare Transformation Design Committee (Committee) to advise DSHS in this effort.

The Committee has met 12 times since June 2009. Over that time, CA offered a model for Phase 1 that would reduce the number of contracts by establishing one lead agency contractor per geographic area to provide or subcontract for all child welfare services. Contract performance would be measured by outcomes related to child safety and well-being, timeliness of services, and results of periodic satisfaction surveys.

A final version of the request for proposals (RFP) for this model was released February 18, 2011, with a submission deadline of May 9, 2011.

On May 5, 2011, the Washington Federation of State Employees (WFSE) filed a motion for a preliminary injunction to halt the RFP. On May 13, 2011, Thurston County Superior Court Judge McPhee granted the preliminary injunction, ruling that DSHS had exceeded its authority under 2SHB 2106, and was in violation of state law requiring agencies that contract out duties customarily performed by state workers to permit employees to offer alternatives or bid for the contracts.

On May 26, 2011, the RFP was formally withdrawn by DSHS Children's Administration; submitted proposals were not scored.

Currently, CA is working to reduce the number of contracts and convert them to performance-based contracts. CA and WFSE have drafted a plan for implementing Phase 1. This plan is under review.

¹ 2SHB 2106, Chapter 520, Laws of 2009.

LEGISLATIVE ASSIGNMENTS

Second Substitute House Bill 2106 (2SHB 2106) established the Child Welfare Transformation Design Committee (Committee), with 24 representatives from the Children's Administration, private agencies, Washington tribes, and other stakeholders² to facilitate the reform's implementation.

The legislation assigned the Committee extensive responsibilities in designing a transition plan for the reform, to be presented as recommendations to the legislature and governor. Their plan was to include:³

- a model for performance-based contracts, including a method for reducing the number of contracts held by CA;
- methods to address monitoring of contracts and measurement of outcomes;
- methods for ensuring contracts comply with federal and state laws regarding child welfare for Indian children;
- methods for expanding capacity of private agencies;
- a model for a financing arrangement that includes consideration of linking reimbursement to outcomes and minimizing financial risk to service providers; and
- a description of costs for the transition and start-up periods.

The Committee was required to report in writing to the governor and the Legislative Children's Oversight Committee quarterly from June 30, 2009, through June 30, 2012; and semi-annually from June 30, 2012, through January 1, 2015.⁴

The second part of the reform (Phase 2) calls for establishment of demonstration sites to test the effects of child welfare case management by private agencies compared with case management by CA. The legislation required the Committee, together with

CA, to select two demonstration sites; one on the eastern side of the state, and one on the western side of the state. The Committee was also tasked with identifying performance outcomes for the demonstration, determining methods for assessing those outcomes, and identifying the size of the populations in the demonstration sites necessary to achieve levels of statistical power and significance established in the legislation.

The Institute was assigned to evaluate the demonstration and report on the "measurable effects" of child welfare case management⁵ provided by private contractors, compared to case management provided by CA. Based on the evaluation findings, "the governor shall ... determine whether to expand this act to the remainder of the state or terminate this act."⁶

Finally, the legislation also assigned DSHS, the Office of Financial Management, and the Caseload Forecast Council to propose a plan for the reinvestment of potential savings resulting from the reform. These savings would be expected to come from reduced foster care placement caseloads.⁷

² In 2010, the legislature amended the committee composition to include a former foster youth (SSB 6832, Chapter 291, Laws of 2010). For a complete list of representation on the Committee, see Appendix Section A.

³ A full list of requirements for the transition plan can be found in Appendix Section C.

⁴ Reports of the Committee are available at <http://www.joinhandsforchildren.org/documents/reports.shtml>.

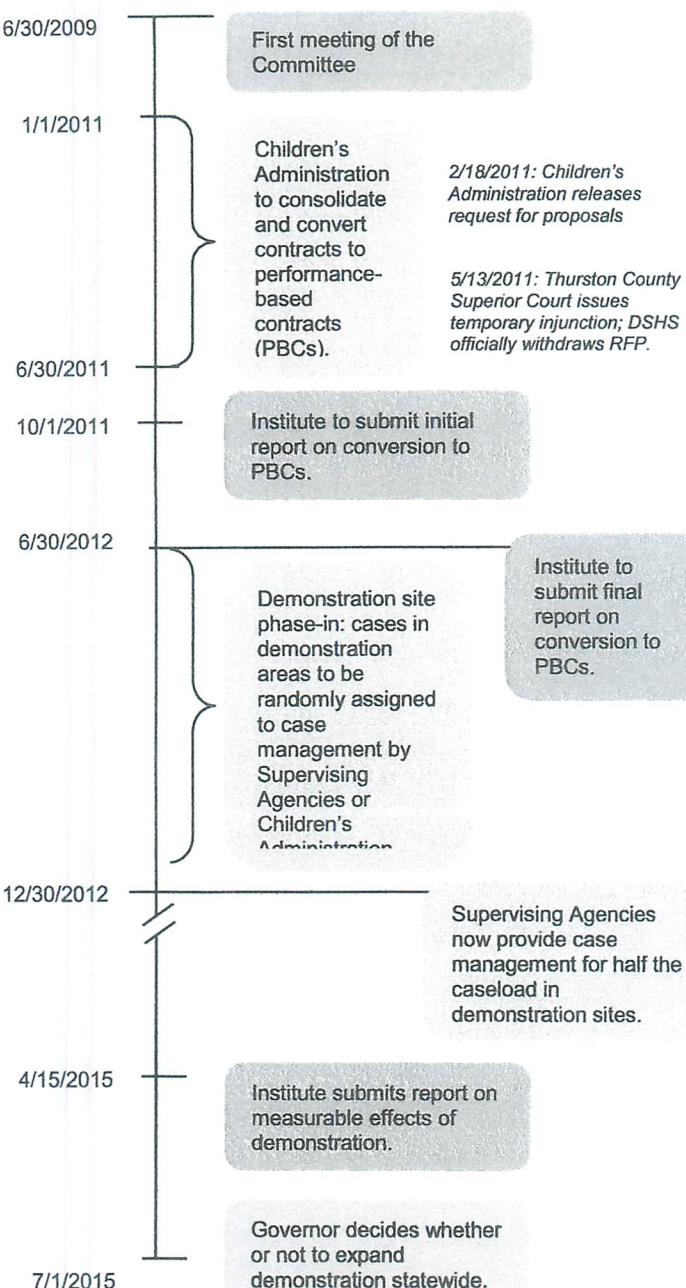
⁵ Under 2SHB 2107, "Case management" means the management of services delivered to children and families in the child welfare system, including permanency services, caseworker-child visits, family visits, the convening of family group conferences, the development and revision of the case plan, the coordination and monitoring of services needed by the child and family, and the assumption of court-related duties, excluding legal representation, including preparing court reports, attending judicial hearings and permanency hearings, and ensuring that the child is progressing toward permanency within state and federal mandates, including the Indian child welfare act. 2SHB 2106, Chapter 520, § 3 (1), Laws of 2009

⁶ 2SHB 2106, Chapter 520, § 10, Laws of 2009.

⁷ The final report on reinvestment was submitted to the governor and the legislature in February 2011. See: Washington State Office of Financial Management (2011) *Child Welfare Reform Savings Reinvestment*. The report is available at: http://www.ofm.wa.gov/reports/child_welfare_reinvestment.pdf

REFORM TIMELINE

The following timeline reflects several changes (extensions) created by the 2010 Legislature:⁸



CHILD WELFARE TRANSFORMATION DESIGN COMMITTEE

The Committee first met on June 30, 2009. To date, the committee has met on 12 occasions.⁹ Partners for Our Children (a public-private partnership located at the University of Washington) and legislative staff provided assistance to the meetings. The early meetings were facilitated by Cedar River Group (a public policy consulting group specializing in mediation and facilitation).

To address the broad scope of issues to be covered in the transition plan (see Appendix Section C), four advisory committees were created with specific expertise to address various topics. The four committees are:

- Legal and Practice Issues
- Outcomes and Evaluation Issues
- Financial Issues
- Site Selection and Transition Issues

The Legal and Practice advisory committee was assigned to define the core services that each supervising agency must provide. In addition, this advisory committee expanded their scope to identify legal processes for working with private agencies providing case management (i.e., during Phase 2 in the demonstration sites). The first task was accomplished and a preliminary service array was submitted to the Legislative Oversight Committee after the advisory committee's September 8th, 2010 meeting. The Legal and Practice advisory committee will reconvene to address the second task after the performance-based contracts are implemented.

The Outcomes and Evaluation advisory committee was tasked with defining the outcomes that contractors need to achieve. Outcomes related to safety, permanency, and well-being were discussed. A list of recommended outcomes was submitted to the full Committee which approved the recommendations in June 2010. The Outcomes and

⁸ SSB 6832, Chapter 291, Laws of 2010

⁹ For a list of meetings and full committee votes, see Appendices E and F.

Evaluation advisory committee's work was completed in April 2010.¹⁰

The Financial advisory committee was asked to identify how to fund the system established in the demonstration sites (Phase 2). This advisory committee discussed how to link payments and incentives to outcomes, start-up costs for Phase 2, and insurance liability requirements for contractors. The work of this advisory committee is ongoing.

The focus of the Site Selection and Transition advisory committee is the demonstration sites. This advisory committee determined that the most robust evaluation of the demonstration sites would involve random assignment of child welfare cases to Supervising Agencies or Children's Administration. Additionally, the advisory committee identified the key criteria for selecting two demonstration sites. In November 2011, the full Committee voted to approve two demonstrations recommended by the advisory committee.¹¹ The Site Selection and Transition advisory committee continues to study issues related to transitioning open cases from CA to Supervising Agencies.

CHILD WELFARE SERVICE CONTRACTS

Children's Administration (CA) contracts with private agencies for a wide range of services for its clients. As previously mentioned, 2SHB 2106 directs the department to reduce the number of contracts for services and to transition existing contracts to performance-based contracts. In FY 2009, prior to passage of 2SHB 2106, CA had 2,203 separate contracts¹², managed at both the DSHS regional and headquarters level. None of the contracts were performance-based; that is, payment was not contingent upon outcomes for children and families.

In 2009, about 75 percent (1,682) of the contracts were "templates." That is, contracts for categories of

¹⁰ See Appendix Section D for the final report of the Outcomes and Evaluation Advisory Committee.

¹¹ The Western Washington site will include the DCFS offices in Everett, Lynnwood, Sky Valley, Smokey Point and two offices in Seattle, King West and Martin Luther King Jr. The Eastern Washington site will include offices in Clarkston, Colfax, Moses Lake, and Spokane (which also serves Lincoln County).

¹² Personal communication from Tammy Hay, Chief - Office of Budget, Forecasts and Contracts, Children's Administration.

service where DSHS regions¹³ complete the form with the provider information and the maximum billable amount. CA has templates for the following categories of service:

- Family Preservation Services
- Intensive Services
- Foster Care Services
- Adolescent Services
- Mental Health Services
- CA Staff Training/Consultation
- Domestic Violence Services
- Purchased Services/Goods

The remaining 521 contracts were "custom" contracts. Regions may issue custom contracts to provide services that meet the unique needs of children and families not covered by the templates. Contracts for two other categories of service—technology and data sharing—are always custom contracts.

Since passage of 2SHB 2106, CA has made efforts, working independently from the Committee, to reduce the number of contracts it maintains. Additionally, CA has moved toward performance-based contracts as defined in a governor's executive order that requires all state cabinet agencies to employ performance-based contracts for client and personal service contracts. CA has used two strategies to reduce the number of contracts:

- 1) Consolidating contracts so that an agency providing services within a service category has a single statewide template contract for those services, rather than separate contracts with individual regions. For example, in 2009 an agency might have had six contracts—one with each of the DSHS geographic regions—to provide a single service. After consolidation, that agency would have a single contract with DSHS for that service category; and

¹³ For administrative purposes, DSHS divides the state into geographical areas referred to as regions. In 2009, there were six regions; in 2011, DSHS consolidated regions so that now, there are three administrative regions.

- 2) Eliminating contracts with agencies and sole proprietors not actively performing services for CA; that is, where no invoices for services were received from an agency or individual in the prior year.

These strategies allowed CA to reduce the number of contracts to 1,823 in FY 2011—a 17 percent reduction from FY 2009. Custom contracts and templates were reduced at about the same rate (15 percent and 18 percent, respectively). Children's Administration (CA) anticipates a further reduction to 1,557 contracts for FY 2012.

Children's Administration continues to review and consolidate existing contracts, while converting them to performance-based contracts according to the governor's definition.¹⁴ Whether or not the Governor's definition of performance-based contracts conforms to the definition specified in 2SHB 2106 has not yet been determined.

In fact, 2SHB 2106 offers two definitions of performance-based contracts. One definition mandates linking performance to reimbursement in contracts. The other allows for—but does not require—linking performance to reimbursement.¹⁵

LEAD AGENCY CONTRACTORS

At the December 2009 meeting of the Committee, CA presented a proposal to consolidate contracts under a small number of "Lead Agency Contractors," a significant departure from CA's current methods for contracting child welfare services. Lead Agencies would be responsible for providing services to children and families within a "Coordinated Care" system. Lead Agency contracts would be awarded in four service categories, ultimately defined as:

- In-home child safety services;
- Placement, reunification and permanency;

¹⁴ "Performance-based contracts identify expected deliverables, performance measures or outcomes; and payment is contingent on their successful delivery. Performance-based contracts also use appropriate techniques, which may include but are not limited to, consequences and/or incentives to ensure that agreed upon value to the state is received."

From Governor's Executive Order 10-07, November 29, 2010.

¹⁵ The two definitions are in Section (2)(9) and Section (13)(5), SSHB2106 (Laws of 2009).

- Intensive treatment services; and
- Transitional services for older youth.

In later months, Children's Administration also clarified that a Lead Agency Contractor could bid for more than one category of services, as well as subcontract with existing providers to provide specific services. Additionally, the performance-based contracts would hold the Lead Agency accountable for services, processes, service coordination, and child and family outcomes.

Throughout this planning period, CA solicited feedback regarding the Lead Agency model from a broad group of stakeholders, including advisory groups within CA, foster parents, relatives, tribal representatives, judiciary representatives, and service providers.

A revised version of the Lead Agency design was presented at the June 2010 meeting of the Committee. This proposal specified that each Lead Agency would be expected to provide or subcontract for all categories of services. Each geographical area would have one Lead Agency and a single contract for all child welfare services. The projected timeline for this project was:

- October–November 2010: Issue a request for proposals for Lead Agency contractors;
- March–April 2011: Execute contracts to enable capacity-building and a 90-day start-up period; and
- July 1, 2011: Legislative deadline for implementation of performance-based contracts.

Children's Administration continued to meet with stakeholders to solicit feedback after the June 2010 meeting.

At the October 2010 Committee meeting, CA clarified their plans for Lead Agency services and responsibilities, and presented an initial proposal for seeking Supervising Agencies to provide case management services in Phase 2. Children's Administration recommended that Supervising Agencies be selected from existing Lead Agencies.

A draft Request for Proposals (RFP) was released by CA on November 22, 2010, followed by a two-week

period for written comments and questions. The December 2010 Committee meeting was devoted to addressing questions that were submitted to CA.

A final version of the RFP was released on February 18, 2011, with a submission deadline of May 9, 2011. The final version of the RFP called for Lead Agencies to provide or subcontract for all services within a geographical area. Contracts would be performance-based, as required by the legislation. Contract performance would be measured based on outcomes related to:

- Child safety and well-being;
- Timeliness of services; and
- Results of periodic satisfaction surveys of children and families, tribes, community partners, CA social workers, and court partners.

COURT ACTION

On May 5, 2011, the Washington Federation of State Employees (WFSE) filed a motion for a preliminary injunction against the Department of Social and Health Services of Washington State. WFSE argued that the RFP issued by CA included elements of child welfare case management that would take work away from state classified employees; that by releasing the RFP without allowing employees to offer alternatives or to compete for the contracts, CA had violated state law regarding “contracting out” services traditionally performed by state workers (RCW 41.06.142).¹⁶ Further, WFSE argued that CA was required to bargain with employees under a separate state statute (RCW 41.80).

In its response, the state’s attorney general argued that under the RFP, CA employees would continue to be responsible for child welfare case management. The attorney general’s office further argued that the reform legislation exempted the conversion to performance-based contracts from the

¹⁶ Washington State Law RCW 41.06.142 governs the criteria for agency-purchased services, when those services are “customarily and historically provided by employees in the classified service”. The law allows state employees who would be displaced by the contract to “offer alternatives to purchasing services by contract and, if these alternatives are not accepted, compete for the contract under competitive contracting procedures.”

requirements of RCW 41.06.142. Therefore, in implementing this law, the agency was not required to provide an opportunity for state employees to offer alternatives to contracting the services or compete for the contracts.

Following oral arguments and briefings, the court concluded that the proposed contracts in the RFP were not exempt from the requirements of RCW 41.06.142; therefore, the RFP could not go forward as planned. On May 13, 2011, Thurston County Superior Court Judge Thomas McPhee issued a preliminary injunction on behalf of WFSE, preventing any further actions regarding the proposed contracts until DSHS “fully complied with the provisions of RCW 41.06.142 and further order of the court . . .”¹⁷

On May 26, 2011, the RFP was formally withdrawn by DSHS Children’s Administration, and submitted proposals were not scored. As of January 2012, no additional court action has occurred.

In January 2012, legislation was introduced concerning child welfare performance contracts.¹⁸ This topic is likely to be the subject of legislative action during the 2012 session.

NEXT STEPS

By June 30, 2012, the Institute will publish its final report on the transition to performance-based contracting.

Suggested citation: M. Miller and S. Lee. (2012). *Transforming Child Welfare in Washington State: Performance-Based Contracting*. Olympia: Washington State Institute for Public Policy, Document Number 12-01-3902

¹⁷ See Appendix Section G for a copy of the court injunction.

¹⁸ HB 2264.

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Document No. 12-01-3902



*Washington State
Institute for
Public Policy*

The Washington State Legislature created the Washington State Institute for Public Policy in 1983. A Board of Directors—representing the legislature, the governor, and public universities—governs the Institute and guides the development of all activities. The Institute's mission is to carry out practical research, legislative direction, on issues of importance to Washington State.

SB 6555 - 2011-12

Providing for family assessments in cases involving child abuse or neglect.

Sponsors: Hargrove, Shin, Roach

Bill History

2012 REGULAR SESSION

- Jan 31 First reading, referred to Human Services & Corrections.
Public hearing in the Senate Committee on Human Services & Corrections at 1:30 PM.
- Feb 2 Executive action taken in the Senate Committee on Human Services & Corrections at 6:00 PM.
- Feb 3 **HSC - Majority; 1st substitute bill be substituted, do pass.**
And refer to Ways & Means.
Referred to Ways & Means.
- Feb 6 Public hearing in the Senate Committee on Ways & Means at 1:30 PM.
- Feb 7 Executive action taken in the Senate Committee on Ways & Means at 1:30 PM.
WM - Majority; do pass 1st substitute bill proposed by Human Services & Corrections.
Passed to Rules Committee for second reading.
- Feb 9 Placed on second reading by Rules Committee.
- Feb 11 **1st substitute bill substituted (HSC 12).**
Floor amendment(s) adopted.
Rules suspended. Placed on Third Reading.
Third reading, passed; yeas, 46; nays, 0; absent, 1; excused, 2.

IN THE HOUSE

- Feb 14 First reading, referred to Early Learning & Human Services.
- Feb 20 Public hearing in the House Committee on Early Learning & Human Services at 6:00 PM.
- Feb 21 Executive action taken in the House Committee on Early Learning & Human Services at 1:30 PM.
ELHS - Majority; do pass with amendment(s).
Referred to Ways & Means.
- Feb 24 Public hearing in the House Committee on Ways & Means at 1:30 PM.
- Feb 25 Executive action taken in the House Committee on Ways & Means at 9:00 AM.
WAYS - Majority; do pass with amendment(s) by Early Learning & Human Services.
Minority; do not pass.
- Feb 27 Referred to Rules 2 Review.
- Feb 29 Rules Committee relieved of further consideration. Placed on second reading.
- Mar 1 Committee amendment adopted as amended.
Rules suspended. Placed on Third Reading.
Third reading, passed; yeas, 97; nays, 0; absent, 0; excused, 1.

IN THE SENATE

Mar 5 Senate refuses to concur in House amendments. Asks House to recede from amendments.

IN THE HOUSE

Mar 6 House receded from amendments.
Rules suspended.
Returned to second reading for amendment.
Floor amendment(s) adopted.
Rules suspended. Placed on Third Reading.
Third reading, passed; yeas, 80; nays, 17; absent, 0; excused, 1.

IN THE SENATE

Mar 7 Held for further consideration.
Senate concurred in House amendments.
Passed final passage; yeas, 49; nays, 0; absent, 0; excused, 0.
Mar 8 President signed.

IN THE HOUSE

Mar 8 Speaker signed.

OTHER THAN LEGISLATIVE ACTION

Mar 8 Delivered to Governor.
Mar 30 Governor signed.
Chapter 259, 2012 Laws.
Effective date 6/7/2012*.

CERTIFICATION OF ENROLLMENT
ENGROSSED SUBSTITUTE SENATE BILL 6555

Chapter 259, Laws of 2012

62nd Legislature
2012 Regular Session

CHILD PROTECTIVE SERVICES

EFFECTIVE DATE: 06/07/12 - Except sections 1 and 3 through 10,
which become effective 12/01/13.

Passed by the Senate March 7, 2012
YEAS 49 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House March 6, 2012
YEAS 80 NAYS 17

FRANK CHOPP

Speaker of the House of Representatives

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 6555** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

Approved March 30, 2012, 1:47 p.m.

FILED

March 30, 2012

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 6555

AS AMENDED BY THE HOUSE

Passed Legislature - 2012 Regular Session

State of Washington

62nd Legislature

2012 Regular Session

By Senate Human Services & Corrections (originally sponsored by
Senators Hargrove, Shin, and Roach)

READ FIRST TIME 02/03/12.

1 AN ACT Relating to child protective services; amending RCW
2 26.44.030, 26.44.031, 26.44.050, and 26.44.125, and 26.44.010;
3 reenacting and amending RCW 26.44.020, 74.13.020, and 74.13.031; adding
4 new sections to chapter 26.44 RCW; adding a new section to chapter 4.24
5 RCW; creating new sections; and providing an effective date.

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

7 **Sec. 1.** RCW 26.44.020 and 2010 c 176 s 1 are each reenacted and
8 amended to read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Abuse or neglect" means sexual abuse, sexual exploitation, or
12 injury of a child by any person under circumstances which cause harm to
13 the child's health, welfare, or safety, excluding conduct permitted
14 under RCW 9A.16.100; or the negligent treatment or maltreatment of a
15 child by a person responsible for or providing care to the child. An
16 abused child is a child who has been subjected to child abuse or
17 neglect as defined in this section.

18 (2) "Child" or "children" means any person under the age of
19 eighteen years of age.

1 ((+22+)) (24) "Social service counselor" means anyone engaged in a
2 professional capacity during the regular course of employment in
3 encouraging or promoting the health, welfare, support, or education of
4 children, or providing social services to adults or families, including
5 mental health, drug and alcohol treatment, and domestic violence
6 programs, whether in an individual capacity, or as an employee or agent
7 of any public or private organization or institution.

8 ((+23+)) (25) "Supervising agency" means an agency licensed by the
9 state under RCW 74.15.090 or an Indian tribe under RCW 74.15.190 that
10 has entered into a performance-based contract with the department to
11 provide child welfare services.

12 ((+24+)) (26) "Unfounded" means the determination following an
13 investigation by the department that available information indicates
14 that, more likely than not, child abuse or neglect did not occur, or
15 that there is insufficient evidence for the department to determine
16 whether the alleged child abuse did or did not occur.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 26.44 RCW
18 to read as follows:

19 (1) No later than December 1, 2013, the department shall implement
20 the family assessment response. The department may implement the
21 family assessment response on a phased-in basis, by geographical area.

22 (2) The department shall develop an implementation plan in
23 consultation with stakeholders, including tribes. The department shall
24 submit a report of the implementation plan to the appropriate
25 committees of the legislature by December 31, 2012. At a minimum, the
26 following must be developed before implementation and included in the
27 report to the legislature:

28 (a) Description of the family assessment response practice model;
29 (b) Identification of possible additional noninvestigative
30 responses or pathways;

31 (c) Development of an intake screening tool and a family assessment
32 tool specifically to be used in the family assessment response. The
33 family assessment tool must, at minimum, evaluate the safety of the
34 child and determine services needed by the family to improve or restore
35 family well-being;

36 (d) Delineation of staff training requirements;

3 (e) Development of strategies to reduce disproportionality;

1 or neglect occurred, but does determine the need for services to
2 address the safety of the child and the risk of subsequent
3 maltreatment.

4 (10) "Family assessment response" means a way of responding to
5 certain reports of child abuse or neglect made under this chapter using
6 a differential response approach to child protective services. The
7 family assessment response shall focus on the safety of the child, the
8 integrity and preservation of the family, and shall assess the status
9 of the child and the family in terms of risk of abuse and neglect
10 including the parent's or guardian's or other caretaker's capacity and
11 willingness to protect the child and, if necessary, plan and arrange
12 the provision of services to reduce the risk and otherwise support the
13 family. No one is named as a perpetrator, and no investigative finding
14 is entered in the record as a result of a family assessment.

15 (11) "Founded" means the determination following an investigation
16 by the department that, based on available information, it is more
17 likely than not that child abuse or neglect did occur.

18 ((+10))) (12) "Inconclusive" means the determination following an
19 investigation by the department, prior to October 1, 2008, that based
20 on available information a decision cannot be made that more likely
than not, child abuse or neglect did or did not occur.

22 ((+11))) (13) "Institution" means a private or public hospital or
23 any other facility providing medical diagnosis, treatment, or care.

24 ((+12))) (14) "Law enforcement agency" means the police department,
25 the prosecuting attorney, the state patrol, the director of public
26 safety, or the office of the sheriff.

27 ((+13))) (15) "Malice" or "maliciously" means an intent, wish, or
28 design to intimidate, annoy, or injure another person. Such malice may
29 be inferred from an act done in willful disregard of the rights of
30 another, or an act wrongfully done without just cause or excuse, or an
31 act or omission of duty betraying a willful disregard of social duty.

32 ((+14))) (16) "Negligent treatment or maltreatment" means an act or
33 a failure to act, or the cumulative effects of a pattern of conduct,
34 behavior, or inaction, that evidences a serious disregard of
35 consequences of such magnitude as to constitute a clear and present
36 danger to a child's health, welfare, or safety, including but not
37 limited to conduct prohibited under RCW 9A.42.100. When considering
whether a clear and present danger exists, evidence of a parent's

1 (3) "Child protective services" means those services provided by
2 the department designed to protect children from child abuse and
3 neglect and safeguard such children from future abuse and neglect, and
4 conduct investigations of child abuse and neglect reports.
5 Investigations may be conducted regardless of the location of the
6 alleged abuse or neglect. Child protective services includes referral
7 to services to ameliorate conditions that endanger the welfare of
8 children, the coordination of necessary programs and services relevant
9 to the prevention, intervention, and treatment of child abuse and
10 neglect, and services to children to ensure that each child has a
11 permanent home. In determining whether protective services should be
12 provided, the department shall not decline to provide such services
13 solely because of the child's unwillingness or developmental inability
14 to describe the nature and severity of the abuse or neglect.

15 (4) "Child protective services section" means the child protective
16 services section of the department.

17 (5) "Children's advocacy center" means a child-focused facility in
18 good standing with the state chapter for children's advocacy centers
19 and that coordinates a multidisciplinary process for the investigation,
20 prosecution, and treatment of sexual and other types of child abuse.
21 Children's advocacy centers provide a location for forensic interviews
22 and coordinate access to services such as, but not limited to, medical
23 evaluations, advocacy, therapy, and case review by multidisciplinary
24 teams within the context of county protocols as defined in RCW
25 26.44.180 and 26.44.185.

26 (6) "Clergy" means any regularly licensed or ordained minister,
27 priest, or rabbi of any church or religious denomination, whether
28 acting in an individual capacity or as an employee or agent of any
29 public or private organization or institution.

30 (7) "Court" means the superior court of the state of Washington,
31 juvenile department.

32 (8) "Department" means the state department of social and health
33 services.

34 (9) "Family assessment" means a comprehensive assessment of child
35 safety, risk of subsequent child abuse or neglect, and family strengths
36 and needs that is applied to a child abuse or neglect report. Family
37 assessment does not include a determination as to whether child abuse

1 (e) Implement the family assessment response in a consistent and
2 cooperative manner;

3 (f) Have the parent or guardian sign an agreement to participate in
4 services before services are initiated that informs the parents of
5 their rights under family assessment response, all of their options,
6 and the options the department has if the parents do not sign the
7 consent form.

8 (14) In conducting an investigation or family assessment of alleged
9 abuse or neglect, the department or law enforcement agency:

10 (a) May interview children. If the department determines that the
11 response to the allegation will be family assessment response, the
12 preferred practice is to request a parent's, guardian's, or custodian's
13 permission to interview the child before conducting the child interview
14 unless doing so would compromise the safety of the child or the
15 integrity of the assessment. The interviews may be conducted on school
16 premises, at day-care facilities, at the child's home, or at other
17 suitable locations outside of the presence of parents. If the
18 allegation is investigated, parental notification of the interview must
19 occur at the earliest possible point in the investigation that will not
20 jeopardize the safety or protection of the child or the course of the
21 investigation. Prior to commencing the interview the department or law
22 enforcement agency shall determine whether the child wishes a third
23 party to be present for the interview and, if so, shall make reasonable
24 efforts to accommodate the child's wishes. Unless the child objects,
25 the department or law enforcement agency shall make reasonable efforts
26 to include a third party in any interview so long as the presence of
27 the third party will not jeopardize the course of the investigation;
28 and

29 (b) Shall have access to all relevant records of the child in the
30 possession of mandated reporters and their employees.

31 ((13))) (15) If a report of alleged abuse or neglect is founded
32 and constitutes the third founded report received by the department
33 within the last twelve months involving the same child or family, the
34 department shall promptly notify the office of the family and
35 children's ombudsman of the contents of the report. The department
36 shall also notify the ombudsman of the disposition of the report.

37 ((14))) (16) In investigating and responding to allegations of

1 (D) The child is an abandoned child as defined in RCW 13.34.030;
2 (E) The child is an adjudicated dependent child as defined in RCW
3 13.34.030, or the child is in a facility that is licensed, operated, or
4 certified for care of children by the department under chapter 74.15
5 RCW, or by the department of early learning.

6 (c) The department may not be held civilly liable for the decision
7 to respond to an allegation of child abuse or neglect by using the
8 family assessment response under this section unless the state or its
9 officers, agents, or employees acted with reckless disregard.

10 (12) (a) For reports of alleged abuse or neglect that are accepted
11 for investigation by the department, the investigation shall be
12 conducted within time frames established by the department in rule. In
13 no case shall the investigation extend longer than ninety days from the
14 date the report is received, unless the investigation is being
15 conducted under a written protocol pursuant to RCW 26.44.180 and a law
16 enforcement agency or prosecuting attorney has determined that a longer
17 investigation period is necessary. At the completion of the
18 investigation, the department shall make a finding that the report of
19 child abuse or neglect is founded or unfounded.

20 (b) If a court in a civil or criminal proceeding, considering the
21 same facts or circumstances as are contained in the report being
22 investigated by the department, makes a judicial finding by a
23 preponderance of the evidence or higher that the subject of the pending
24 investigation has abused or neglected the child, the department shall
25 adopt the finding in its investigation.

26 ((+12+)) (13) For reports of alleged abuse or neglect that are
27 responded to through family assessment response, the department shall:

28 (a) Provide the family with a written explanation of the procedure
29 for assessment of the child and the family and its purposes;

30 (b) Collaborate with the family to identify family strengths,
31 resources, and service needs, and develop a service plan with the goal
32 of reducing risk of harm to the child and improving or restoring family
33 well-being;

34 (c) Complete the family assessment response within forty-five days
35 of receiving the report; however, upon parental agreement, the family
36 assessment response period may be extended up to ninety days;

37 (d) Offer services to the family in a manner that makes it clear
38 that acceptance of the services is voluntary;

1 of child abuse or neglect that are screened in and accepted for
2 departmental response:

3 (i) Investigation; or

4 (ii) Family assessment.

5 (b) In making the response in (a) of this subsection the department
6 shall:

7 (i) Use a method by which to assign cases to investigation or
8 family assessment which are based on an array of factors that may
9 include the presence of: Imminent danger, level of risk, number of
10 previous child abuse or neglect reports, or other presenting case
11 characteristics, such as the type of alleged maltreatment and the age
12 of the alleged victim. Age of the alleged victim shall not be used as
13 the sole criterion for determining case assignment;

14 (ii) Allow for a change in response assignment based on new
15 information that alters risk or safety level;

16 (iii) Allow families assigned to family assessment to choose to
17 receive an investigation rather than a family assessment;

18 (iv) Provide a full investigation if a family refuses the initial
19 family assessment;

20 (v) Provide voluntary services to families based on the results of
21 the initial family assessment. If a family refuses voluntary services,
22 and the department cannot identify specific facts related to risk or
23 safety that warrant assignment to investigation under this chapter, and
24 there is not a history of reports of child abuse or neglect related to
25 the family, then the department must close the family assessment
26 response case. However, if at any time the department identifies risk
27 or safety factors that warrant an investigation under this chapter,
28 then the family assessment response case must be reassigned to
29 investigation;

30 (vi) Conduct an investigation, and not a family assessment, in
31 response to an allegation that, the department determines based on the
32 intake assessment:

33 (A) Poses a risk of "imminent harm" consistent with the definition
34 provided in RCW 13.34.050, which includes, but is not limited to,
35 sexual abuse and sexual exploitation as defined in this chapter;

36 (B) Poses a serious threat of substantial harm to a child;

37 (C) Constitutes conduct involving a criminal offense that has, or
is about to occur, in which the child is the victim;

1 (f) Development of strategies to assist and connect families with
2 the appropriate private or public housing support agencies, for those
3 parents whose inability to obtain or maintain safe housing creates a
4 risk of harm to the child, risk of out-of-home placement of the child,
5 or a barrier to reunification;

6 (g) Identification of methods to involve local community partners
7 in the development of community-based resources to meet families'
8 needs. Local community partners may include, but are not limited to:
9 Alumni of the foster care system and veteran parents, local private
10 service delivery agencies, schools, local health departments and other
11 health care providers, juvenile court, law enforcement, office of
12 public defense social workers or local defense attorneys, domestic
13 violence victims advocates, and other available community-based
14 entities;

15 (h) Delineation of procedures to assure continuous quality
16 assurance;

17 (i) Identification of current departmental expenditures for
18 services appropriate for the family assessment response, to the
19 greatest practicable extent;

20 (j) Identification of philanthropic funding and other private
21 funding available to supplement public resources in response to
22 identified family needs;

23 (k) Mechanisms to involve the child's Washington state tribe, if
24 any, in any family assessment response, when the child subject to the
25 family assessment response is an Indian child, as defined in RCW
26 13.38.040;

27 (l) A potential phase-in schedule if proposed; and

28 (m) Recommendations for legislative action required to implement
29 the plan.

30 **Sec. 3.** RCW 26.44.030 and 2009 c 480 s 1 are each amended to read
31 as follows:

32 (1) (a) When any practitioner, county coroner or medical examiner,
33 law enforcement officer, professional school personnel, registered or
34 licensed nurse, social service counselor, psychologist, pharmacist,
35 employee of the department of early learning, licensed or certified
36 child care providers or their employees, employee of the department,
juvenile probation officer, placement and liaison specialist,

1 (e) Providing adequate care of children away from their homes in
2 foster family homes or day care or other child care agencies or
3 facilities.

4 "Child welfare services" does not include child protection
5 services.

6 (5) "Committee" means the child welfare transformation design
7 committee.

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

10 (7) "Extended foster care services" means residential and other
11 support services the department is authorized to provide to foster
12 children. These services include, but are not limited to, placement in
13 licensed, relative, or otherwise approved care, or supervised
14 independent living settings; assistance in meeting basic needs;
15 independent living services; medical assistance; and counseling or
16 treatment.

17 (8) "Family assessment" means a comprehensive assessment of child
18 safety, risk of subsequent child abuse or neglect, and family strengths
19 and needs that is applied to a child abuse or neglect report. Family
20 assessment does not include a determination as to whether child abuse
21 or neglect occurred, but does determine the need for services to
22 address the safety of the child and the risk of subsequent
23 maltreatment.

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

28 ((+9))) (10) "Out-of-home care services" means services provided
29 after the shelter care hearing to or for children in out-of-home care,
30 as that term is defined in RCW 13.34.030, and their families, including
31 the recruitment, training, and management of foster parents, the
32 recruitment of adoptive families, and the facilitation of the adoption
33 process, family reunification, independent living, emergency shelter,
34 residential group care, and foster care, including relative placement.

35 ((+10))) (11) "Performance-based contracting" means the structuring
36 of all aspects of the procurement of services around the purpose of the
37 work to be performed and the desired results with the contract
requirements set forth in clear, specific, and objective terms with

1 **Sec. 5.** RCW 26.44.050 and 1999 c 176 s 33 are each amended to read
2 as follows:

3 Except as provided in RCW 26.44.030(11), upon the receipt of a
4 report concerning the possible occurrence of abuse or neglect, the law
5 enforcement agency or the department of social and health services must
6 investigate and provide the protective services section with a report
7 in accordance with chapter 74.13 RCW, and where necessary to refer such
8 report to the court.

9 A law enforcement officer may take, or cause to be taken, a child
10 into custody without a court order if there is probable cause to
11 believe that the child is abused or neglected and that the child would
12 be injured or could not be taken into custody if it were necessary to
13 first obtain a court order pursuant to RCW 13.34.050. The law
14 enforcement agency or the department of social and health services
15 investigating such a report is hereby authorized to photograph such a
16 child for the purpose of providing documentary evidence of the physical
17 condition of the child.

18 NEW SECTION. **Sec. 6.** A new section is added to chapter 26.44 RCW
19 to read as follows:

20 (1) Within ten days of the conclusion of the family assessment, the
21 department must meet with the child's parent or guardian to discuss the
22 recommendation for services to address child safety concerns or
23 significant risk of subsequent child maltreatment.

24 (2) If the parent or guardian disagrees with the department's
25 recommendation regarding the provision of services, the department
26 shall convene a family team decision-making meeting to discuss the
27 recommendations and objections. The caseworker's supervisor and area
28 administrator shall attend the meeting.

29 (3) If the department determines, based on the results of the
30 family assessment, that services are not recommended then the
31 department shall close the family assessment response case.

32 **Sec. 7.** RCW 74.13.020 and 2011 c 330 s 4 are each reenacted and
33 amended to read as follows:

34 For purposes of this chapter:

35 (1) "Case management" means ((the management of services delivered
to children and families in the child welfare system, including

1 (2) The department shall destroy all of its records concerning:

2 (a) A screened-out report, within three years from the receipt of
3 the report; and

4 (b) An unfounded or inconclusive report, within six years of
5 completion of the investigation, unless a prior or subsequent founded
6 report has been received regarding the child who is the subject of the
7 report, a sibling or half-sibling of the child, or a parent, guardian,
8 or legal custodian of the child, before the records are destroyed.

9 (3) The department may keep records concerning founded reports of
10 child abuse or neglect as the department determines by rule.

11 (4) ((An)) No unfounded, screened-out, or inconclusive report or
12 information about a family's participation or nonparticipation in the
13 family assessment response may ((not)) be disclosed to a child-placing
14 agency, private adoption agency, or any other provider licensed under
15 chapter 74.15 RCW without the consent of the individual who is the
16 subject of the report or family assessment, unless:

17 (a) The individual seeks to become a licensed foster parent or
18 adoptive parent; or

19 (b) The individual is the parent or legal custodian of a child
20 being served by one of the agencies referenced in this subsection.

21 (5)(a) If the department fails to comply with this section, an
22 individual who is the subject of a report may institute proceedings for
23 injunctive or other appropriate relief for enforcement of the
24 requirement to purge information. These proceedings may be instituted
25 in the superior court for the county in which the person resides or, if
26 the person is not then a resident of this state, in the superior court
27 for Thurston county.

28 (b) If the department fails to comply with subsection (4) of this
29 section and an individual who is the subject of the report or family
30 assessment response information is harmed by the disclosure of
31 information, in addition to the relief provided in (a) of this
32 subsection, the court may award a penalty of up to one thousand dollars
33 and reasonable attorneys' fees and court costs to the petitioner.

34 (c) A proceeding under this subsection does not preclude other
35 methods of enforcement provided for by law.

36 (6) Nothing in this section shall prevent the department from
37 retaining general, nonidentifying information which is required for
state and federal reporting and management purposes.

1 child abuse and neglect, the department may conduct background checks
2 as authorized by state and federal law.

3 ((15)) (17)(a) The department shall maintain investigation
4 records and conduct timely and periodic reviews of all founded cases of
5 abuse and neglect. The department shall maintain a log of screened-out
6 nonabusive cases.

7 (b) In the family assessment response, the department shall not
8 make a finding as to whether child abuse or neglect occurred. No one
9 shall be named as a perpetrator and no investigative finding shall be
10 entered in the department's child abuse or neglect database.

11 ((16)) (18) The department shall use a risk assessment process
12 when investigating alleged child abuse and neglect referrals. The
13 department shall present the risk factors at all hearings in which the
14 placement of a dependent child is an issue. Substance abuse must be a
15 risk factor. ((The department shall, within funds appropriated for
16 this purpose, offer enhanced community based services to persons who
17 are determined not to require further state intervention.

18 (17)) (19) Upon receipt of a report of alleged abuse or neglect
19 the law enforcement agency may arrange to interview the person making
20 the report and any collateral sources to determine if any malice is
involved in the reporting.

22 ((18)) (20) Upon receiving a report of alleged abuse or neglect
23 involving a child under the court's jurisdiction under chapter 13.34
24 RCW, the department shall promptly notify the child's guardian ad litem
25 of the report's contents. The department shall also notify the
26 guardian ad litem of the disposition of the report. For purposes of
27 this subsection, "guardian ad litem" has the meaning provided in RCW
28 13.34.030.

29 **Sec. 4.** RCW 26.44.031 and 2007 c 220 s 3 are each amended to read
30 as follows:

31 (1) To protect the privacy in reporting and the maintenance of
32 reports of nonaccidental injury, neglect, death, sexual abuse, and
33 cruelty to children by their parents, and to safeguard against
34 arbitrary, malicious, or erroneous information or actions, the
35 department shall not disclose or maintain information related to
36 reports of child abuse or neglect except as provided in this section or
as otherwise required by state and federal law.

1 results shall be reported no later than December 1, 2014. The second
2 survey results shall be reported no later than December 1, 2016.

4 **Sec. 11.** RCW 26.44.125 and 1998 c 314 s 9 are each amended to read
5 as follows:

6 (1) A person who is named as an alleged perpetrator after October
7 1, 1998, in a founded report of child abuse or neglect has the right to
seek review and amendment of the finding as provided in this section.

8 (2) Within ((twenty)) thirty calendar days after ((receiving
9 ~~written notice from the department~~) the department has notified the
10 alleged perpetrator under RCW 26.44.100 that ((a)) the person is named
11 as an alleged perpetrator in a founded report of child abuse or
12 neglect, he or she may request that the department review the finding.
13 The request must be made in writing. The written notice provided by
14 the department must contain at least the following information in plain
15 language:

16 (a) Information about the department's investigative finding as it
17 relates to the alleged perpetrator;

18 (b) Sufficient factual information to apprise the alleged
19 perpetrator of the date and nature of the founded reports;

20 (c) That the alleged perpetrator has the right to submit to child
21 protective services a written response regarding the child protective
22 services finding which, if received, shall be filed in the department's
23 records;

24 (d) That information in the department's records, including
25 information about this founded report, may be considered in a later
26 investigation or proceeding related to a different allegation of child
27 abuse or neglect or child custody;

28 (e) That founded allegations of child abuse or neglect may be used
29 by the department in determining:

30 (i) If a perpetrator is qualified to be licensed or approved to
31 care for children or vulnerable adults; or

32 (ii) If a perpetrator is qualified to be employed by the department
33 in a position having unsupervised access to children or vulnerable
34 adults;

35 (f) That the alleged perpetrator has a right to challenge a founded
36 allegation of child abuse or neglect.

1 information and comment regarding how the department and supervising
2 agencies are performing the duties and meeting the obligations
3 specified in this section and RCW 74.13.250 and 74.13.320 regarding the
4 recruitment of foster homes, reducing foster parent turnover rates,
5 providing effective training for foster parents, and administering a
6 coordinated and comprehensive plan that strengthens services for the
7 protection of children. Consultation shall occur at the regional and
8 statewide levels.

9 (18) (a) The department shall, within current funding levels, place
10 on its public web site a document listing the duties and
11 responsibilities the department has to a child subject to a dependency
12 petition including, but not limited to, the following:

13 (i) Reasonable efforts, including the provision of services, toward
14 reunification of the child with his or her family;

15 (ii) Sibling visits subject to the restrictions in RCW
16 13.34.136(2)(b)(ii);

17 (iii) Parent-child visits;

18 (iv) Statutory preference for placement with a relative or other
19 suitable person, if appropriate; and

20 (v) Statutory preference for an out-of-home placement that allows
21 the child to remain in the same school or school district, if practical
22 and in the child's best interests.

23 (b) The document must be prepared in conjunction with a community-
24 based organization and must be updated as needed.

25 **NEW SECTION.** **Sec. 9.** The Washington state institute for public
26 policy shall conduct an evaluation of the implementation of the family
27 assessment response. The institute shall define the data to be
28 gathered and maintained. At a minimum, the evaluations must address
29 child safety measures, out-of-home placement rates, re-referral rates,
30 and caseload sizes and demographics. The institute shall deliver its
31 first report no later than December 1, 2014, and its final report by
32 December 1, 2016.

33 **NEW SECTION.** **Sec. 10.** The department of social and health
34 services shall conduct two client satisfaction surveys of families that
35 have been placed in the family assessment response. The first survey

1 (3) The department shall investigate complaints of any recent act
2 or failure to act on the part of a parent or caretaker that results in
3 death, serious physical or emotional harm, or sexual abuse or
4 exploitation, or that presents an imminent risk of serious harm, and on
5 the basis of the findings of such investigation, offer child welfare
6 services in relation to the problem to such parents, legal custodians,
7 or persons serving in loco parentis, and/or bring the situation to the
8 attention of an appropriate court, or another community agency. An
9 investigation is not required of nonaccidental injuries which are
10 clearly not the result of a lack of care or supervision by the child's
11 parents, legal custodians, or persons serving in loco parentis. If the
12 investigation reveals that a crime against a child may have been
13 committed, the department shall notify the appropriate law enforcement
14 agency.

15 (4) As provided in RCW 26.44.030(11), the department may respond to
16 a report of child abuse or neglect by using the family assessment
17 response.

18 (5) The department or supervising agencies shall offer, on a
19 voluntary basis, family reconciliation services to families who are in
20 conflict.

21 ((+5))) (6) The department or supervising agencies shall monitor
22 placements of children in out-of-home care and in-home dependencies to
23 assure the safety, well-being, and quality of care being provided is
24 within the scope of the intent of the legislature as defined in RCW
25 74.13.010 and 74.15.010. Under this section children in out-of-home
26 care and in-home dependencies and their caregivers shall receive a
27 private and individual face-to-face visit each month. The department
28 and the supervising agencies shall randomly select no less than ten
29 percent of the caregivers currently providing care to receive one
30 unannounced face-to-face visit in the caregiver's home per year. No
31 caregiver will receive an unannounced visit through the random
32 selection process for two consecutive years. If the caseworker makes
33 a good faith effort to conduct the unannounced visit to a caregiver and
34 is unable to do so, that month's visit to that caregiver need not be
35 unannounced. The department and supervising agencies are encouraged to
36 group monthly visits to caregivers by geographic area so that in the
37 event an unannounced visit cannot be completed, the caseworker may

EXHIBIT 2

Washington State Institute for Public Policy

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December 2014

Performance-Based Contracting for Family Support and Related Services: *Preliminary Report*

The Children's Administration at the Department of Social and Health Services (DSHS) contracts with non-governmental agencies and individuals to provide services to children and families involved in the child welfare system. In 2009, the Washington State Legislature directed DSHS to change the way this contracting is done.

Under the recent law, DSHS was directed to enter into "performance-based" contracts with network administrators—rather than individual providers and agencies—for family support and related services by July 2014.¹

The legislation also directed the Washington State Institute for Public Policy (WSIPP) to evaluate "the extent to which the use of performance-based contracting has resulted in: (a) Increased use of evidence-based, research-based, and promising practices; (b) Improvements in outcomes for children, including child safety, child permanency, including reunification, and child well-being."²

Summary

The Children's Administration at the Department of Social and Health Services (DSHS) contracts with non-governmental agencies and individuals to provide services to children and families involved in the child welfare system. In 2009, the Washington State Legislature directed DSHS to change the way this contracting is done.

Subsequent legislation directed DSHS to contract with "network administrators" to serve as the regional contact with DSHS. Network administrators will subcontract with direct services providers and/or provide services themselves.

The legislature also directed the Washington State Institute for Public Policy to evaluate the extent to which this new contracting arrangement has increased the use of evidence-based, research-based, and promising practices and whether it has improved outcomes for children. The final report is due June 30, 2016. In this preliminary report, we provide a brief legislative history and synopsis of recent developments in DSHS' movement toward implementing performance-based contracting.

¹ RCW 74.13B.020.

² RCW 74.13.370.

A preliminary report is due December 1, 2014 and a final report in 2016. In this preliminary report we review the background of the legislation and briefly describe the current status in DSHS' shift to performance-based contracts.

Background

The 2009 Washington State Legislature passed 2SHB 2106 directing the Children's Administration (CA) of the Department of Social and Health Services (DSHS) to implement the law in two phases:³

- Phase 1) Convert contracts with child welfare service providers to performance-based contracts and reduce the overall number of contracts by January 1, 2011; and
- Phase 2) Set up two demonstration sites to compare child welfare case management by private agencies with case management by DSHS employees to be implemented in July 2012.

The legislation established the Child Welfare Transformation Design Committee (Committee) to advise DSHS in this effort. The legislation also directed WSIPP to evaluate Phases 1 and 2.

The Committee met 14 times between June 2009 and December 2012.⁴ During that time, CA offered a model for Phase 1 that would reduce the number of contracts by establishing one lead agency contractor (later referred to as network administrators) per geographic area to provide or subcontract for all child welfare services. Contract performance would be measured

by outcomes related to child safety and well-being, timeliness of services, and results of periodic satisfaction surveys. A request for proposals (RFP) for this model was released February 18, 2011, with a submission deadline of May 9, 2011.

On May 5, 2011, the Washington Federation of State Employees filed a motion for a preliminary injunction to halt the RFP.

On May 13, 2011, Thurston County Superior Court Judge McPhee granted the preliminary injunction, ruling that DSHS had exceeded its authority under 2SHB 2106 and was in violation of state law requiring agencies that contract out duties customarily performed by state workers to permit employees to offer alternatives or bid for the contracts.

On May 26, 2011, DSHS Children's Administration formally withdrew the RFP.

Between 2011 and 2013, the legislature changed the law twice.

In 2012, the legislature passed ESSB 2264, amending the law and incorporating CA's suggested idea for a lead agency contractor.⁵ The new law created the "network administrator," an "entity that contracts with the department to provide defined services to children and families in the child welfare system through its provider network."⁶ Beginning December 1, 2013, DSHS should not renew contracts with individual agencies or providers but rather should contract with network administrators

³ SSHB 2106, Chapter 520, Laws of 2009.

⁴ For more information on the Committee and other activities related to the law, see: Miller, M., & Lee, S. (2012). *Transforming child welfare in Washington State: Performance-based contracting* (Doc. Number 12-01-3902). Olympia: Washington State Institute for Public Policy, <http://www.wsipp.wa.gov/Reports/320>

⁵ ESSB 2264, Chapter 205, Laws of 2012.

⁶ RCW 74.13B.020.

in geographical areas who would subcontract with individual service providers.

The law requires that contracts with network administrators be performance-based, with performance measures related to successful engagement of children and families, resulting in improvement in identified problem behaviors and interactions.⁷

In January 2013, DSHS released an RFP for contracts as network administrators. However, when five of eight potential bidders indicated they would not submit a proposal, DSHS rescinded the RFP in March of that year.⁸ During the summer and fall of 2013, DSHS held two public meetings with providers, tribes, and other stakeholders. DSHS' goal in holding the meetings was to understand the reasons for lack of interest in bidding and to gather information necessary to successfully implement performance-based contracting in a manner consistent with the legislation.⁹

The 2013 Legislature again amended the law, which included the following changes:

- Postponing until July 1, 2014 when DSHS must begin implementing performance-based contracting with network administrators;
- Postponing until July 1, 2015 when DSHS must fully implement performance-based contracting;
- Allowing the department to release either a request for information (RFI) or an RFP;
- Suspending the Child Welfare Transformation Design Committee until December 1, 2015; and
- Delaying demonstration sites (Phase 2) until December 30, 2016.¹⁰

⁷ Ibid.

⁸ Letter from Assistant Secretary Jennifer Strus, March 13, 2013, retrieved online: <http://www1.dshs.wa.gov/pdf/ca/RescindRFP3-13-13.pdf>

⁹ Ibid.

¹⁰ ESHB 1774, Chapter 205, Laws of 2013.

Recent Developments

In January 2014, DSHS issued an RFI for performance-based contracting in Spokane, Lincoln, Whitman, Stevens, Adams, Grant, and Pend Oreille Counties. The RFI asked for information about the vendor community. Specifically, it enquired about:

- Whether vendors are experienced in managing performance-based contracting related to family support and related services;
- Whether vendors were available and interested in responding to an RFP;
- What approach vendors would take in assisting DSHS to implement performance-based contracting; and
- Recommendations on potential geographic service areas that contain Spokane and neighboring counties.

A single entity, Empire Health Foundation (EHF), responded to the RFI. EHF sought input from a collaboration of local and statewide provider organizations as it crafted the response.

The response proposed a two-tiered model with a statewide, non-profit network administrator and collaborative regional network administrators in each of the three DSHS regions. The statewide administrator would provide:

- finance and contract management;
- performance monitoring;
- a referral resource data base;
- tribal liaison;
- human resources;
- information technology support; and
- provider training in evidence-based practices.

In the EHF proposal, in each region the collaborative network administrators would consist of executive leadership and teams of referral specialists and contract specialists. Regional network administrators would subcontract with providers for services. Under the proposed model, regional network administrators would be co-located in DSHS offices.

The model proposes that the statewide network administrator not be a direct provider of services and, therefore, would be neutral and not in competition with providers.

Empire Health Foundation recently created a subsidiary, the Family Impact Network, to serve as network administrator. EHF is now conducting a search for an executive director and expects to fill the position in January 2015.

DSHS and EHF are currently negotiating a contract for network administrator services in the eastern Washington locations named in the RFI. A final agreement is anticipated before the end of 2014.

In the response to the RFI, EHF estimated that the cost of the network administrator would amount to 15% of the funds currently budgeted for services in the eastern Washington location. In order to avoid diversion of child welfare service dollars, DSHS has requested \$3.475 million in state funds for the 2015-17 biennium to cover overhead and administrative costs of the network administrator.¹¹

¹¹ Washington State Department of Social and Health Services 2015-17 Human Services Budget Proposal.

Next Steps

Over the next 18 months, WSIPP will follow implementation of the performance-based contracting. By June 30, 2016, in consultation with "a university-based child welfare research entity,"¹² we will report on those outcomes defined in law. Namely, we will evaluate whether the use of performance-based contracts resulted in improved child outcomes including child safety, permanent placements for children, and child well-being.

WSIPP was also directed to determine whether performance-based contracting results in an increased use of evidence-based (EBP), research-based (RBP) and promising practices.

http://www.dshs.wa.gov/pdf/budget/2015-17Biennial/StackDPs/CAPL-N5_Performance_Based_Contracting.pdf

¹² E2SHB 2264, Chapter 205, Laws of 2012.

However, because of additional legislation passed in 2012, we may have difficulty attributing changes in use of EBPs and RBPs solely to performance-based contracting.¹³ The legislation directed DSHS to increase the use of EBPs and RBPs. Thus, if we observe higher rates of EBPs and RBPs, we may not be able to determine the role performance-based contracting may have played.

¹³ E2SHB 2536, Chapter 232, Laws of 2012.

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Document No. 14-12-3902

 Washington State Institute for Public Policy

The Washington State Legislature created the Washington State Institute for Public Policy in 1983. A Board of Directors—representing the legislature, the governor, and public universities—governs WSIPP and guides the development of all activities. WSIPP's mission is to carry out practical research, at legislative direction, on issues of importance to Washington State.

EXHIBIT 3

THE SPOKESMAN-REVIEW

Washington Idaho WA Government

NEWS > SPOKANE

State workers union sues DSHS, claims 'effort to privatize child welfare'

Sat., May 7, 2011



By Kevin Graman

kevingr@spokesman.com

The largest union representing Washington state workers has filed a lawsuit in Thurston County Superior Court seeking to stop the Department of Social and Health Services from privatizing child welfare.

DSHS maintains it is merely implementing a law that requires the department's Children's Administration to consolidate its numerous state contracts based on performance standards and measurable outcomes.

In 2009, the Legislature enacted House Bill 2106, mandating increased accountability in the state child welfare system.

The law has two parts: It requires the department to convert its roughly 1,600 child and family services contracts into performance-based contracts. Secondly, it calls for a pilot project to be completed and evaluated by 2015 to determine whether child welfare is best handled by state or private agencies.

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In its request for proposals from private contractors, the state has called for “a lead agency model” for delivery of child welfare services.

The union says this exceeds the law’s mandate by seeking proposals for contracts from private organizations to perform functions now done by state case managers represented by WFSE, who would be displaced.

“We have identified the elements in the request for proposal that are very clearly case management that they are contracting out prematurely,” said Jeanine Livingston, WFSE contract compliance manager. “This is a very clear effort to privatize child welfare.”

Because union employees have not been allowed to compete for these contracts, the lawsuit said, “DSHS has refused to bargain in good faith with the WFSE.”

Last month, the union filed an unfair labor practices complaint with the Public Employment Relations Commission over the same complaints alleged in the lawsuit.

Children’s Administration spokeswoman Sherry Hill said she could not comment on the lawsuit, but said the agency is complying with requirements of the new law.

“We are consolidating and converting existing contracts,” Hill said.

The lawsuit asks the court to enjoin the state from contracting out case management services during the litigation and until the unfair labor practices complaint is decided.

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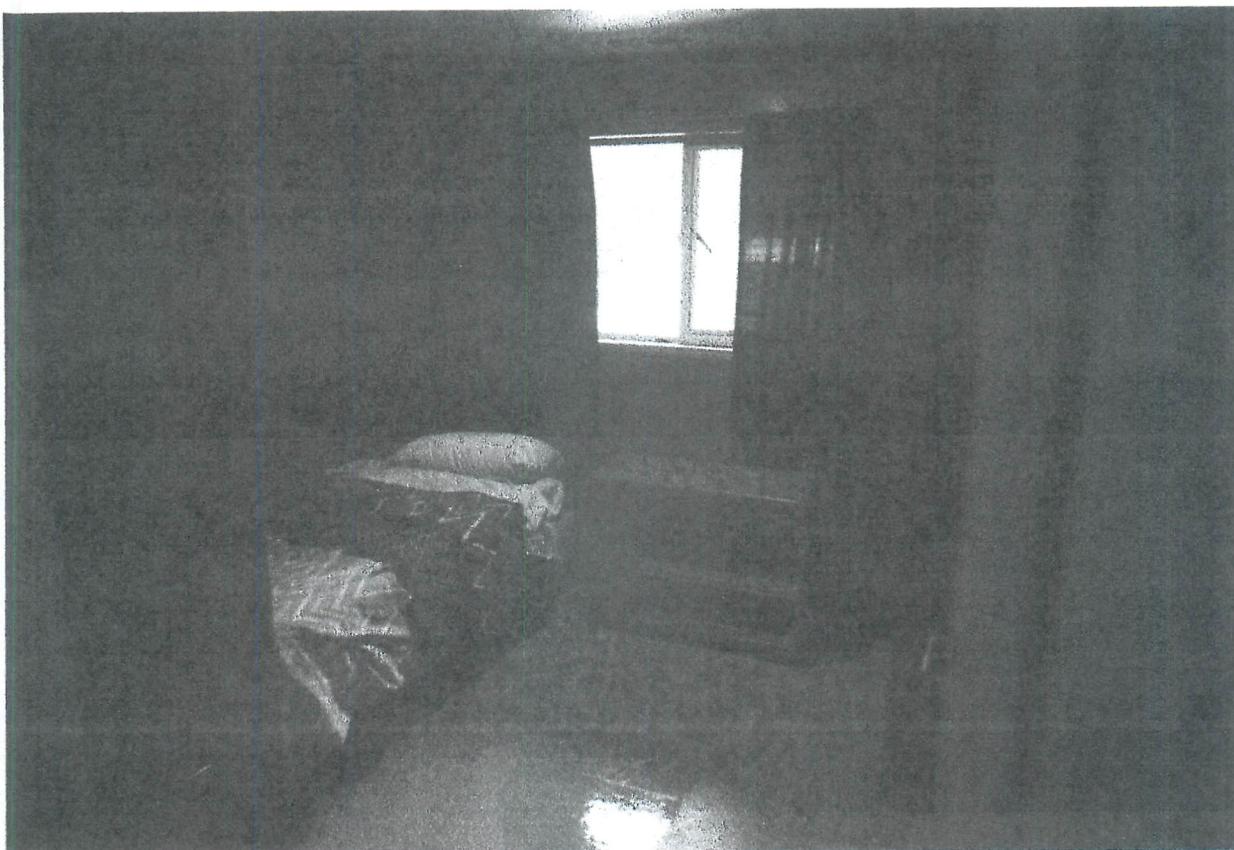


EQUITY

Washington sees surge of foster kids placed in hotels while they wait for treatment

The Legislature may boost funds requested by Gov. Jay Inslee to better address severe behavioral cases.

by Allegra Abramo *InvestigateWest* / January 30, 2020 / Updated at 10:50 a.m.



A bedroom inside a group home belonging to Secret Harbor, a foster care agency that was forced to close about half of the beds in its group homes in the past decade. Foster home shortages across the state are forcing social workers to place foster youth in hotels, state offices or even send them out of state. (Matt M. McKnight/Crosscut)

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One evening in early January 2018, workers at the Kent office of the Washington Department of Children, Youth and Families called police three times.

Their emergency? An out-of-control 11-year-old foster child.

As was the case with hundreds of other children in recent years, the state had been keeping the girl in a hotel because no foster families or group homes would take her. The child was awaiting counseling for "emotionally aggressive youth" and could not be left unmonitored with children more

than two years younger than her, according to state records. The previous month, the girl had assaulted three workers while they supervised her overnight in a hotel.

On the night the police were called to the Kent office, the girl stayed there because she couldn't be safely transported to a hotel, according to state documents obtained by InvestigateWest.

A month later, after the girl cycled between hospitals and hotels, her behaviors had "escalated," social workers noted in the reports they must file each time a child spends a night in a hotel or state office. After at least seven weeks of instability, the 11-year-old was finally placed in a program for troubled foster youth with behaviors that most foster parents find too hard to manage.

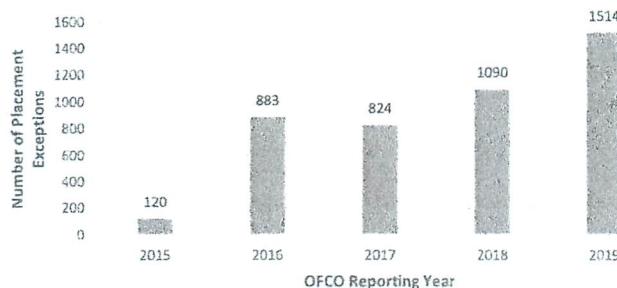
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This girl is one of a growing number of children that the state has been housing in hotels and state offices — sometimes on and off for weeks or months — as it struggles to rebuild services for a relatively small number of foster youth with significant mental health and behavioral challenges.

A record 282 children spent a total of 1,514 nights in hotels and state offices between September 2018 and August 2019, according to a [recent report](#) by the Washington Office of the Family and Children's Ombuds. That's nearly 39% more hotel stays than the previous year, and the highest number since the ombuds began tracking them five years ago. The [trend continued](#) through late last year, records show.

Next: Hoh Tribe partners with SpaceX to get online, but rural demand remains high

Figure 1: Number of Placement Exceptions



"Placement exceptions" refer to nights when children who are wards of the state stay in a hotel or a state office instead of with a foster family. Of the number of placement exceptions from 2018 to 2019, only six nights were in state offices. (Source: Washington State Office of the Family and Children's Ombuds)

The steady increase in hotel stays, state officials say, is the legacy of recession-era budget cuts. Those cuts chipped away at treatment and support services for youth — in foster care and in the general population — who have mental illnesses, autism and developmental delays, addictions or behaviors that parents, relatives and foster families feel ill-equipped to handle. In particular, the Department of Children, Youth and

Related Stories



Families say the state has too few group home spots for youth who need intensive treatment before they can return to parents, relatives or foster families.

The shortage of in-state options has also led the state in recent years to ship many of the hardest-to-place foster youths to out-of-state group homes, some of which have come under fire for mistreating kids. The state is now working to bring all foster youth back to Washington, where it can better monitor their care. But those efforts also are hindered by a lack of in-state group homes qualified to care for severely troubled youth.

"This is 'chickens come home to roost' for bad public policy and inadequate funding of both child welfare and public mental health during the past 10 to 15 years or longer," said Dee Wilson, a former regional administrator in Washington's child welfare system who now trains social workers.

Now legislators in Olympia are preparing to approve the second half of a two-year budget that, if Gov. Jay Inslee has his way, will continue to fall short, critics say, presaging more expensive overnights at hotels for foster youth.

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Meanwhile, the toll on both children and state social workers mounts.

Children staying in hotels have made suicidal gestures and attempts, have sexually assaulted other youth, set fires in state offices and faced multiple arrests, the ombuds report says. Most spend their days sitting in Department of Children, Youth and Families offices instead of attending school, and they subsist largely on a diet of fast-food. "They report that being in a transient situation makes them feel no one wants them and they are unlovable," the report concludes.

"This is just another level of trauma we are inflicting on these children," Ombuds Director Patrick Dowd told the Department of Children, Youth and Families Oversight Board earlier this month.

To address the problem, Inslee's proposed 2020-21 supplemental budget includes \$7.6 million for 33 long- and short-term beds in facilities with "enhanced therapeutic services" for children with acute mental health, developmental and behavioral needs.

EQUITY

Foster parents say 'retaliation' by caseworkers means fewer families to help kids in need

Records portray a culture of fear, even as Washington state attempts to respond to a flood of new cases.

by Rachel Nielsen / January 15

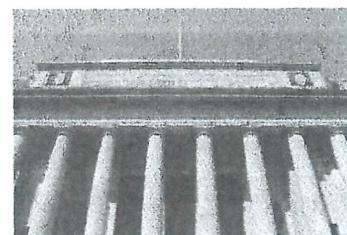


EQUITY

Head trauma, painful restraints: WA foster kids face abuse out of state

The state removed foster kids from an Iowa facility following reports of abuse, but red flags abound at other group homes.

by Allegra Abramo / February 5



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State must protect foster children from abuse, court rules

In a 5-4 ruling, the Washington state Supreme Court sided with the five former foster children who had been abused.

by Levi Pulkkinen / November 1

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Some Democratic lawmakers say the governor's proposal falls short, especially since the state recently had to move 26 of those foster youth out of Ryther, the children's mental health agency. The Seattle nonprofit said it could no longer afford to serve foster youth at the state's reimbursement rate.

"It's nothing short of criminal" that high-needs foster children are being sent to out-of-state group homes or kept in hotels, instead of in a safe setting like Ryther, said state Rep. Gerry Pollet, a Seattle Democrat whose district includes Ryther.
"And the crazy thing about it is, it actually ends up costing far, far more."

The Department of Children, Youth and Families spends roughly \$2,100 per night for a hotel stay, most of that for two social workers and often a security guard to stay up all night and watch over a child. That's nearly five times the \$422 per night the state now pays in-state group homes, and 3½ times more than Ryther said it needs to break even. Since 2015, hotel stays have cost taxpayers an estimated \$9.3 million.

Pollet and other lawmakers say they will seek to supplement the governor's request in order to stem what the department calls a "crisis."

Kids with mental illness, disabilities drive hotel stays

Children placed in hotels and offices include the occasional healthy infant or young adult on the verge of graduating from high school. But kids with "no significant barriers to placement" rarely show up among the more than 200 Department of Children, Youth and Families reports reviewed by InvestigateWest justifying individual hotel and office stays from 2016 through 2018..

More typical are youngsters such as the 17-year-old who functions at the level of a 3- or 4-year-old; the 11-year-old with "sexualized behaviors" who can't be around small children; and the 7-year old "displaying significant disruptive behaviors, including destruction of property and assaults of staff and caregivers." Many have been diagnosed with, and hospitalized for, a variety of mental health conditions that are blacked out in the records InvestigateWest obtained.

More than 38% of kids in hotels last year had a history of being physically aggressive, while nearly 28% needed mental health treatment, the ombuds found. Running away, developmental disabilities, sexualized behaviors and self-harm were also common.

But even children without a lot of special needs, when placed in hotels, begin to exhibit more challenging behaviors, said one state social worker in King County who agreed to speak

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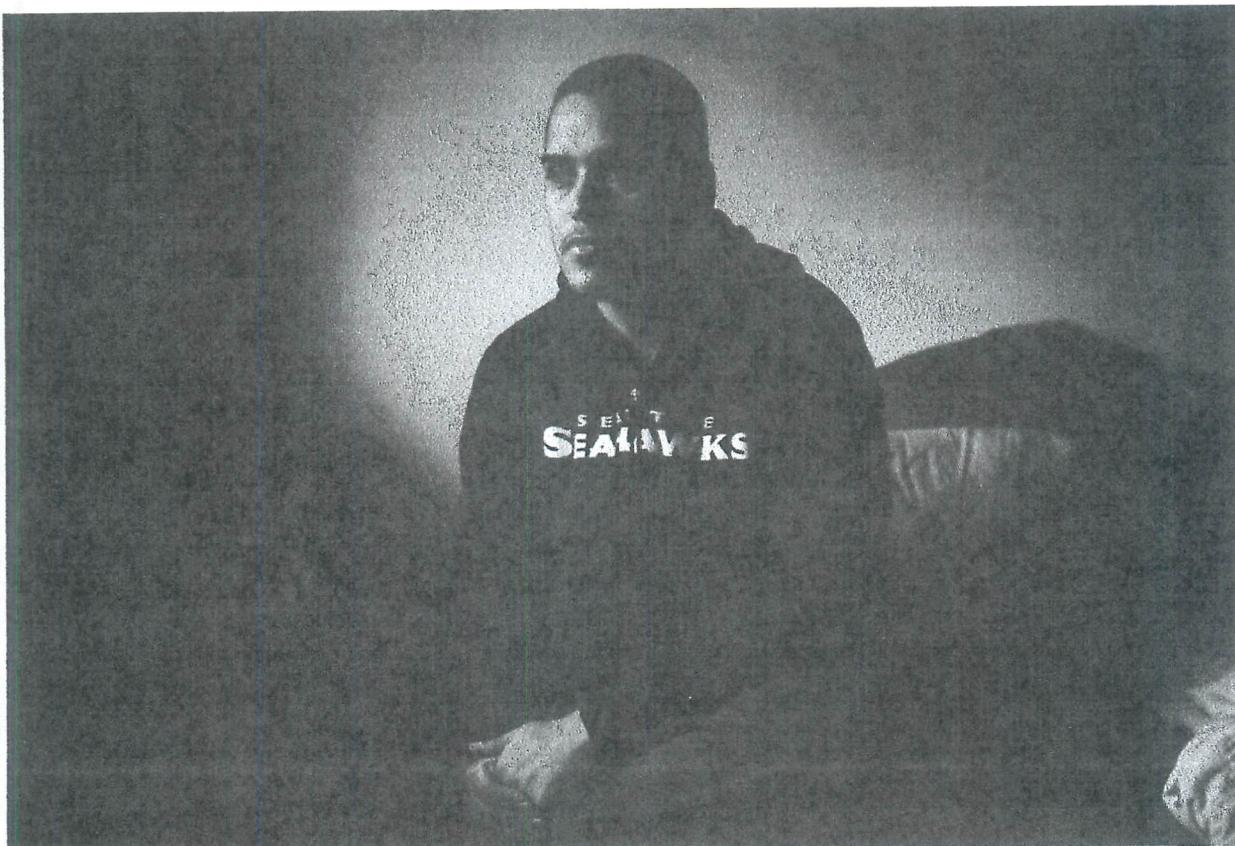


EQUITY

Head trauma, painful restraints: WA foster kids face abuse out of state

The state removed foster kids from an Iowa facility following reports of abuse, but red flags abound at other group homes.

by Allegra Abramo *InvestigateWest* / February 5, 2019



Jesus Lopez, 21, in his Mount Vernon home on Nov. 27, 2018. Lopez entered the Washington foster care system at age 3, and officially left the system on his 21st birthday. During his time in the system, Lopez was sent for a brief time to a facility in Iowa called Clarinda Academy. In October, Disability Rights Washington published a report about Clarinda and its "abusive" practices. (Photo by Dorothy Edwards/Crosscut)

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Just three days after arriving at the Clarinda Academy in rural Iowa, Jesus Lopez lay unmoving in his bed, bruises across his forehead, arms, legs and back. Investigators would later report that staffers at the group home for foster kids and other troubled youths had repeatedly picked up the 17-year-old, dropped him onto his buttocks and pushed him forward until his face hit the floor.

Lopez says he blacked out. He remembers a nurse trying to wake him. One of the workers who had restrained Lopez told investigators he had checked on Lopez throughout the night, concerned because the boy didn't move for hours.

Lopez agreed to attend Clarinda after bouncing between 29 foster homes and several group homes in Washington state, beginning at age 3. He had arrived excited to learn the welding trade. His Washington caseworker had encouraged the move. Things were finally looking up.

But when he got there, he says, the place felt like a prison. And when he tried to run away, staffers carried him back inside and took turns restraining him, first in a shoe closet and then behind a bedroom door. The result, an investigator for Iowa Child Protective Services found, was "severe bruising" to Lopez's forehead.

Jesus Lopez's experience at Clarinda in 2015 is just one of many stories of troubled foster youths mistreated there and at other out-of-state group homes housing Washington foster kids, government records show.

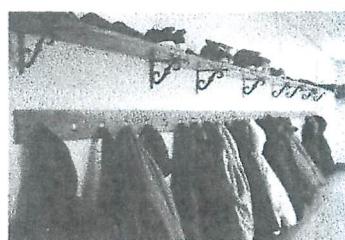
Next: Hoh Tribe partners with SpaceX to get online, but rural demand remains high

As far back as 2012, California authorities repeatedly found that foster youths they had sent to Clarinda were subject to inappropriate restraints, including incidents in which one youth's collarbone was broken and another passed out and was hospitalized with possible head trauma, reports from the California Department of Social Services show.

Then last year, a government-appointed watchdog group, Disability Rights Washington, delved into the experiences of three Washington children who attended Clarinda two years after Lopez had left the facility. It revealed the use of what the group's report called "abusive" and painful restraints on children for "questionable reasons at best." Only at that point did the Department of Children, Youth and Families begin relocating the half-dozen Washington kids at Clarinda at the time. The last left at the end of January, the department says.

Yet dozens of other Washington foster kids remain at group homes in South Carolina, Wyoming and Michigan that also appear to have mistreated children, according to InvestigateWest's review of official reports from oversight agencies in other states. These include other facilities owned by Clarinda's parent company, the for-profit, Alabama-based Sequel Youth and Family Services. Mental health experts generally agree that physically restraining people in crisis can be traumatizing and dangerous, yet Sequel and other group care providers continue to rely on restraints to manage their charges.

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Report: Washington foster kids abused at out-of-state group home

Lopez said one reason he decided to share his story with InvestigateWest is that he wonders how Washington could let other kids suffer as he did at Clarinda. "When I heard about that, it made me cry," he said of the Disability Rights findings. "I don't want other kids to go through what I went through," he said.

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About 100 Washington foster kids currently live outside the state at group homes across a dozen states as far away as Florida. Ross Hunter, secretary of the Department of Children, Youth and Families, declared in October his intention to bring all those youths back to Washington within two years. The department plans to do that mainly by increasing capacity at in-state group homes.



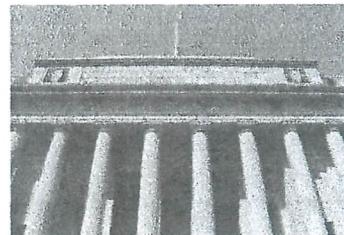
Founded in 1992, Clarinda Academy was originally intended to be a facility for "delinquent" young men. Washington youth are sent there through the foster care system, not because they have committed a crime. (Photo by Tina Pinedo/Disability Rights Washington)

In the meantime, Washington continues to send foster youths to other out-of-state group homes, where authorities have documented short staffing, medication mix-ups, children running away and instances of workers improperly restraining and even assaulting youths:

- At Palmetto Pee Dee, a South Carolina group treatment facility that currently houses more Washington youths than any other out-of-state facility, workers pushed and struck children and put them in "unsafe" physical holds, according to reports by the South Carolina Department of Health and Environmental Control. In one 2017 incident, captured on a surveillance camera, a staffer entered a child's room, punched him and placed him in a headlock. The facility paid \$19,700 in fines last year for 51 violations dating back to 2016. It's unclear whether

Washington social workers allegedly knew of the abuses, but did not act.

by Allegra Abramo / October 17



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State must protect foster children from abuse, court rules

In a 5-4 ruling, the Washington state Supreme Court sided with the five former foster children who had been abused.

by Levi Pulkkinen / November 1



POLITICS

Foster kids trapped as WA system collapses

Washington kids are being warehoused in hotels and shipped out of state.

by Allegra Abramo / September 21

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Washington youths were involved in any of the incidents described in state investigation reports.

- At Normative Services, a Sequel facility in Wyoming, inspectors in 2016 concluded that “the organization uses physical restraints as punishment, for the convenience of the staff and as a program substitution,” according to reports by the California Department of Social Services. One worker improperly restrained a resident and broke the child’s arm, and another lost his temper and punched and kicked a youth.
- Starr Albion Prep in Michigan has been the subject of nearly 60 investigations since 2014 by the Michigan Department of Health and Human Services. Reports from the Sequel-affiliated facility show that staffers in 2018 restrained youths unnecessarily and used unapproved techniques, in one case breaking a child’s thumb. The facility did not have enough workers to effectively deal with youths’ behaviors, state inspectors concluded.
- Northwest Children’s Home, in Idaho, was threatened with losing its license in 2017 after a lack of appropriate supervision led to multiple incidents of children engaging in sexual acts with each other and an alleged rape, according to The Lewiston Tribune. The facility remained open but was banned from admitting more children for several months.

Prompted by Disability Rights’ report about Clarinda, the Department of Children, Youth and Families says it has stepped up its monitoring of youths placed out of state. It dispatched case workers to check up on all foster kids outside the state last fall. Washington case workers will continue to visit out-of-state youths quarterly, plus call them every month. In the past, the department relied almost exclusively on contracted case workers in those states to check up on Washington kids each month. The department is also developing systems to more thoroughly vet facilities before it contracts with them and to monitor compliance with those contracts, it told InvestigateWest.

“There’s no question that the oversight at out-of-state facilities was not as stringent as it should have been nor as thorough as it will be moving forward,” the department wrote in an email.

In a statement emailed to InvestigateWest, Sequel Executive Vice President Steve Gilbert wrote, “We work diligently to ensure that we are providing the best care possible for our students, including continually improving our policies and

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by Melissa Santos / October 6

CULTURE

procedures. If we identify a problem in our organization, we self-report it and make the appropriate correction immediately."

Clarinda, Normative Services and Starr Albion Prep, he wrote, "all have their full licensure status. As a behavioral health organization, we are subject to constant monitoring by state regulatory and licensing oversight bodies, as well as The Joint Commission. Our facilities each receive dozens of on-site assessments per year, including many unannounced visits."

Dashed hopes

Washington sends children out of state only after it has exhausted all in-state options, said Doug Allison, who oversees services for adolescents, including those sent out of state, with the Department of Children, Youth and Families.

Keeping kids close to home is "just best practice," he said. It's not always possible, he added, because in-state options have dwindled to a "critical" level over the past decade, due in part to post-recession budget cuts.

By the time Lopez agreed to try out Clarinda in 2015, just months before he turned 18, he was losing hope. His last chance of finding a permanent family had evaporated a year earlier, when a couple that had been planning to adopt Lopez had a family emergency in another state and backed out of the adoption at the last minute.

"I fell apart," he says of that period.

Stays in facilities for runaways, the hospital, juvenile detention and another group home followed. A social worker's notes to the court said Clarinda Academy was "the only placement that was willing to take Jesus due to his behaviors over the last year."

Lopez says a representative from Clarinda told him he could learn welding there. He would have a skill to support himself when he left foster care — an important goal for foster youths, who face high rates of unemployment when they leave the system.

"It sounded awesome," Lopez says now. "I wanted to give it a try."

But as soon as he got to Clarinda, he could tell it wasn't for him.

The imposing brick buildings felt like a prison and look out on an *actual* medium-security prison across the road. Youths attend school on campus. They are rarely permitted to leave.

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by Agueda Pacheco Flores / October 7

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From Wenatchee to Broadway, and now, Amazon Prime: This Tony-nominated play arrives at a pivotal moment for the Supreme Court.

by Misha Berson / October 27

The program aims to reform “delinquent” kids, as Clarinda’s website calls them, and the facility’s policies assume that a court has ordered their placement there for violating the law, according to Disability Rights. Rules are enforced through a series of escalating “interventions” that can end with staffers physically restraining youths if they fail to comply.

Lopez says staffers told him he would have to stay until he “finished the program.” He felt like a criminal, he says, instead of a foster kid who had gone there voluntarily.

“When you voluntarily admit yourself to a facility, you’re allowed to leave,” Lopez said. “If you’re not allowed to leave, it’s prison.”

Jesus Lopez leaves an administrative procedure hearing at the Mount Vernon courthouse, where he was released from the Washington foster care system on his 21st birthday on Nov. 27, 2018. (Photo by Dorothy Edwards/Crosscut)

More than a month after staffers roughly restrained Lopez, Iowa Child Protective Services opened an investigation into the incident. One worker admitted to investigators that he and others were performing “improper restraints.” He said that Lopez “wasn’t aggressive or fighting and was limp as a noodle” after they carried him back into the building. The workers said they’d been working double shifts and were “tired and frustrated.”

“It’s shocking what they did,” said Alexandria Hohman, a state-appointed lawyer who represented Lopez as he prepared to leave Washington’s foster care system last year. “I wouldn’t tackle a dog the way Jesus was tackled.”

Four workers involved in the incident told investigators they had been suspended for three days, placed on probation for 90 days and required to take additional training. One had been reprimanded three previous times for using improper restraints, according to the Child Protective Services report.

Sequel said privacy laws prevent it from commenting on Lopez's case. In an emailed statement, Sequel Executive Vice President Gilbert wrote that the Iowa Department of Human Services' November 2018 report on Clarinda "concluded that our use of restraints as an emergency safety intervention were all appropriate and were consistently utilized for the safety of the students and people around them."

The approach Sequel takes to reforming what it calls "delinquent behaviors" at Clarinda is the same approach it seeks to use at all 30 of its facilities, according to the Disability Rights report.

Washington had placed about 50 foster children at nine Sequel group homes, including Clarinda, as of November 2018. The state paid Clarinda \$733,000 in the fiscal year ending June 2018.

The Department of Children, Youth and Families was unable to answer InvestigateWest's questions about what actions caseworkers took after Lopez was injured three years ago.

A Washington state child welfare supervisor did visit Lopez at Clarinda, but it's unclear if she knew at the time of her visit about the way he had been mistreated. A different social worker's later report to the judge overseeing Lopez's case mentioned that he "has required several physical interventions," but it does not describe his injuries or the Iowa Child Protective Services investigation.

Without that information, the judge couldn't take steps to protect Lopez, his former lawyer, Hohman, pointed out.

"The lack of transparency is alarming to me," she said. "If nobody says anything, nobody can act."

Are other group homes any better?

Even though Washington has stopped sending kids to Clarinda, other group homes the department still uses also have been cited for multiple serious violations.

At Palmetto Pee Dee in South Carolina, which serves youths with autism and psychiatric disorders, children have been injured by each other and by staffers on multiple occasions, reports by the state's Department of Health and Environmental Control show. The 59-bed facility housed 16 Washington youths at the end of last year, according to the facility.

In one 2016 incident, a youth said a staffer "kept calling him stupid" and "got into my face," according to the state's report. When the youth pushed the staffer, she "punched me in the

face, grab [sic] my hair and hit my head on the rail." The youth was taken to the hospital with bruises and scratches on his face.

When you voluntarily admit yourself to a facility, you're allowed to leave. If you're not allowed to leave, it's prison."

— Jesus Lopez

According to another 2016 complaint, a girl lost one-quarter of her body weight in an unspecified period, going from 132 pounds when she entered the facility to less than 97 pounds by the time the state investigated.

The Department of Health and Environmental Control took the unusual step of fining Palmetto Pee Dee nearly \$20,000 for dozens of violations related to those and other shortcomings over a four-month period ending January 2017. It cited understaffing, failure to document physical examinations, and numerous failings related to meals, cleanliness and facility upkeep, among others.

Of 11 licensed residential treatment centers for children in South Carolina, Palmetto Pee Dee is the only one fined in the past three years, according to the Department of Environmental Health and Control. State officials met with facility managers in February 2018 to review their compliance with agreed-upon measures, and the department said in an email to InvestigateWest that it considers the matter closed.

Yet Palmetto Pee Dee has faced multiple investigations since the ones that led to the fines:

- In two October 2018 incidents, a staffer placed a youth in an "unsafe physical hold" and struck him in the face. Another worker pushed a youth against a wall and put him in a headlock.
- One youth was bitten by his peers at least a half-dozen times in 2017, and investigators concluded the facility failed to take appropriate actions to protect the child.
- A staffer attempting to escort a youth away from a confrontation with a peer in 2017 "heard a popping sound come from the resident's arm." The youth was sent to hospital and diagnosed with a broken elbow.
- Multiple youths were able to run away due to insufficient staffing in 2017. Last May, nine kids dashed out doors and climbed fences in a mass escape.