

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Committee Substitute

for

House Bill 2260

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[Originating in the Committee on the Judiciary;

Reported on February 18, 2021]

1 A BILL to amend and reenact §49-2-111a of the Code of West Virginia, 1931, as amended,
2 relating to the department's obligations to enter into performance-based contracts with
3 child-placing agencies; extending a deadline; and exempting the contract from
4 purchasing.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. STATE RESPONSIBILITIES FOR CHILDREN

§49-2-111a. Performance based contracting for child placing agencies.

1 (a) For purposes of this section:

2 (1) "Child" means:

3 (A) A person of less than 18 years of age; or

4 (B) A person 18 to 21 years of age who is eligible to receive the extended foster care
5 services.

6 (2) "Child-placing agency" means an agency licensed by the department to place a child
7 in a foster care home.

8 (3) "Department" means the Department of Health and Human Resources.

9 (4) "Evidence-based" means a program or practice that is cost-effective and includes at
10 least two randomized or statistically controlled evaluations that have demonstrated improved
11 outcomes for its intended population.

12 (5) "Performance-based contracting" means structuring all aspects of the ~~procurement of~~
13 ~~services~~ service contract around the purpose of the work to be performed and the desired results
14 with the contract requirements set forth in clear, specific, and objective terms with measurable
15 outcomes and linking payment for services to contractor performance.

16 (6) "Promising practice" means a practice that presents, based upon preliminary
17 information, potential for becoming a research-based or consensus-based practice.

18 (7) "Research-based" means a program or practice that has some research demonstrating
19 effectiveness, but that does not yet meet the standard of evidence-based practices.

20 (b) No later than ~~December 1, 2020~~ July 1, 2021, the department shall enter into
21 performance-based contracts with child placing agencies.

22 (c) ~~In conducting the procurement,~~ The department shall actively consult with other state
23 agencies and other entities with expertise in performance-based contracting with child placing
24 agencies to develop the requirements of the performance-based contract.

25 (d) The ~~procurement process~~ performance-based contract shall be developed and
26 implemented in a manner that complies with applicable provisions of this code. Contracts for child
27 placing agencies are exempt from §5A-3-1 of this code.

28 (e) The ~~procurement and~~ resulting contracts shall include, but are not limited to, the
29 following:

30 (1) Adequate capacity to meet the anticipated service needs in the contracted service area
31 of the child placing agency;

32 (2) The use of evidence-based, research-based, and promising practices, where
33 appropriate, including fidelity and quality assurance provisions;

34 (3) Child placing agency data reporting, including data on performance and service
35 outcomes, including, but not limited to:

36 (A) Safety outcomes;

37 (B) Permanency outcomes;

38 (C) Well-being outcomes;

39 (D) Incentives earned;

40 (E) Placement of older children;

41 (F) Placement of children with special needs; and

42 (G) Recruitment and retention of foster parents; and

43 (4) A hold harmless period to determine a baseline for evaluation.

44 ~~(f) As part of the procurement process under this section, the department shall issue the~~
45 ~~request for proposals no later than July 1, 2020. The department shall notify the apparently~~
46 ~~successful bidders no later than September 1, 2020.~~

47 (g) Performance-based payment methodologies must be used in child placing agency
48 contracting. Performance measures should relate to successful engagement by a child or parent
49 in services included in their case plan, and resulting improvement in identified problem behaviors
50 and interactions. For the first year of implementation of performance-based contracting, the
51 department may transfer financial risk for the provision of services to the child placing agency
52 only to the limited extent necessary to implement a performance-based payment methodology,
53 such as phased payment for services. However, the department may develop a shared savings
54 methodology through which the child placing agency will receive a defined share of any savings
55 that result from improved performance. If the department receives a Title IV-E waiver, the shared
56 savings methodology must be consistent with the terms of the waiver. If a shared savings
57 methodology is adopted, the child placing agency shall reinvest the savings in enhanced services
58 to better meet the needs of the families and children they serve.

59 ~~(h)~~ (g) The department shall actively monitor the child placing agency's compliance with
60 the terms of contracts executed under this section.

61 ~~(i)~~ (h) The use of performance-based contracts under this section shall be done in a
62 manner that does not adversely affect the state's ability to continue to obtain federal funding for
63 child welfare-related functions currently performed by the state and with consideration of options
64 to further maximize federal funding opportunities and increase flexibility in the use of such funds,
65 including use for preventive and in-home child welfare services.

66 ~~(j)~~ (i) The department shall pay child placing agencies contracted to provide adoption
67 services to foster families a minimum of \$1,000 per child for each adoption finalized.

68 ~~(k)~~ (j) The rate of payment to foster parents and child placing agencies shall be reviewed
69 by the department, at a minimum of every two years, to determine whether the level of foster care

70 payments facilitates or hinders the efficient placement of foster children with West Virginia
71 families. The department shall remit payments to foster parents on the same week each month
72 to facilitate foster parents' ability to budget and appropriately expend payments for the benefit of
73 the children in their custody.

74 ~~(j)~~ (k) The department shall report the performance of the child placing agency to the
75 Legislative Oversight Commission on Health and Human Resources Accountability by December
76 31, annually.

NOTE: The purpose of this bill is to clarify the department's obligations to enter into performance-based contracts with child-placing agencies.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.