

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2260

BY DELEGATES J. PACK, ROHRBACH, SUMMERS,
LONGANACRE, ROWAN, G. WARD, FORSHT, SMITH,
STEELE, ESPINOSA AND BARRETT

[Passed March 30, 2021; in effect from passage.]

1 AN ACT 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 service contract
13 around the purpose of the work to be performed and the desired results with the contract
14 requirements set forth in clear, specific, and objective terms with measurable outcomes and
15 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 July 1, 2021, the department shall enter into performance-based
21 contracts with child placing agencies.

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

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

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

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

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

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

35 (A) Safety outcomes;

36 (B) Permanency outcomes;

37 (C) Well-being outcomes;

38 (D) Incentives earned;

39 (E) Placement of older children;

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

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

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

43 (f) Performance-based payment methodologies must be used in child placing agency
44 contracting. Performance measures should relate to successful engagement by a child or parent
45 in services included in their case plan, and resulting improvement in identified problem behaviors

46 and interactions. For the first year of implementation of performance-based contracting, the
47 department may transfer financial risk for the provision of services to the child placing agency
48 only to the limited extent necessary to implement a performance-based payment methodology,
49 such as phased payment for services. However, the department may develop a shared savings
50 methodology through which the child placing agency will receive a defined share of any savings
51 that result from improved performance. If the department receives a Title IV-E waiver, the shared
52 savings methodology must be consistent with the terms of the waiver. If a shared savings
53 methodology is adopted, the child placing agency shall reinvest the savings in enhanced services
54 to better meet the needs of the families and children they serve.

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

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

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

64 (j) The rate of payment to foster parents and child placing agencies shall be reviewed by
65 the department, at a minimum of every two years, to determine whether the level of foster care
66 payments facilitates or hinders the efficient placement of foster children with West Virginia
67 families. The department shall remit payments to foster parents on the same week each month
68 to facilitate foster parents' ability to budget and appropriately expend payments for the benefit of
69 the children in their custody.

70 (k) The department shall report the performance of the child placing agency to the
71 Legislative Oversight Commission on Health and Human Resources Accountability by December
72 31, annually.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2021.

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Governor