

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

Senate Bill 815

BY SENATOR TAKUBO

[Introduced February 16, 2024; referred
to the Committee on Health and Human Resources]

1 A BILL to amend and reenact §49-2-111a of the Code of West Virginia, 1931, as amended,
2 relating to performance-based contracting for child-placing agencies; and requiring the
3 Department of Human Services and the Bureau for Social Services to make a rate study,
4 analysis of workforce capacity, and the impact on children of the current reimbursement
5 levels for child-placement agencies and to report the performance of the child-placing
6 agency to the Legislative Oversight Commission on Health and Human Resources
7 Accountability and to the Joint Committee on Government and Finance by December 31,
8 annually.

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 "Bureau" means the Bureau for Social Services.

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

9 ~~(3)~~ "Department" means the Department of Human Services.

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

13 ~~(5)~~ "Performance-based contracting" means structuring all aspects of the service contract
14 around the purpose of the work to be performed and the desired results with the contract

15 requirements set forth in clear, specific, and objective terms with measurable outcomes and
16 linking payment for services to contractor performance.

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

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

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

23 (c) The department shall actively consult with other state agencies and other entities,
24 including the Bureau for Social Services, with expertise in performance-based contracting with
25 child-placing agencies to develop the requirements of the performance-based contract.

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

29 (e) The resulting contracts shall include, but are not limited to, the 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) Performance-based payment methodologies must be used in child-placing agency
45 contracting. Performance measures should relate to successful engagement by a child or parent
46 in services included in their case plan, and resulting improvement in identified problem behaviors
47 and interactions. For the first year of implementation of performance-based contracting, the
48 department may transfer financial risk for the provision of services to the child-placing agency
49 only to the limited extent necessary to implement a performance-based payment methodology,
50 such as phased payment for services. However, the department may develop a shared savings
51 methodology through which the child-placing agency will receive a defined share of any savings
52 that result from improved performance. If the department receives a Title IV-E waiver, the shared
53 savings methodology must be consistent with the terms of the waiver. If a shared savings
54 methodology is adopted, the child-placing agency shall reinvest the savings in enhanced services
55 to better meet the needs of the families and children they serve.

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

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

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

65 (j) The rate of payment to foster parents and child-placing agencies shall be reviewed by
66 the department and the bureau, at a minimum of every two years, to determine whether the level

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

71 (k) The department and the Bureau for Social Services shall report the performance of the
72 child-placing agency to the Legislative Oversight Commission on Health and Human Resources
73 Accountability and to the Joint Committee on Government and Finance by December 31,
74 annually. The report shall include a rate study, analysis of workforce capacity, and the impact on
75 children of the current reimbursement levels for child placement agencies. The department shall
76 include in the report an explanation with justification on whether the department plans to increase
77 child placement agency rates pursuant study findings in the subsequent fiscal year and how it
78 proposes to accomplish this goal.