

Session Wrap-Up: Behavioral Health

Issue Team Chair: Mary Lynne Courtney

Contact: mlcourtney@lwvwa.org

April 30, 2023

The 2023 Legislative Session has ended! The last day of the session was April 23. Thank you for all that you have done. You deserve a loud congratulatory fanfare. Much was accomplished in behavioral health. Still some things to push for in the session, but overall, much to be happy about.

A special thanks for responding to the Action Alert in the last Newsletter for HB 1155 Addressing the collection, sharing, and selling of consumer health data (aka, Washington, My Health, My Data Act). We asked you to write to your legislators urging them to concur with the Senate version of the bill that provided more privacy protections. The House concurred with the Senate version and the Governor signed it.

Bills Needing Action This Week

Please read Bills We Support to see the latest status of these bills.

No bills require action.

However, after you catch your breath, **this would be a good time to email your legislators thanking them for supporting the bills that are important to you.** Emailing all of the legislators for all of the bills that you support likely would be too time-consuming a task. But, perhaps, you could prioritize the emails, limiting your emails only to your own legislators and/or to only the bills that you consider most important. Acknowledging the actions our legislators take supporting bills is as important, maybe even more important, than complaining about things we don't like.

Another suggestion, talk with your legislators this summer. Hear what they have to say and let your opinion be known.

Bills We Support

These are bills that have passed both the Senate and the House and been signed by the Governor. They are law!!!

HB 1155 Addressing the collection, sharing, and selling of consumer health data (aka, Washington, My Health, My Data Act). Generally, people assume that their healthcare information is private, and this privacy is protected by a federal law, HIPAA. However, health data collected by certain apps and websites is not covered. This bill closes these gaps in privacy protections for healthcare data. Privacy is particularly important in regard to certain sensitive healthcare data such as reproductive health care, gender-affirming care, and behavioral health diagnoses. Exposure of an individual's healthcare information could have negative consequences, and concerns about exposure might hinder someone from seeking health information or care.

A substitute bill, weaker than the original, passed out of the House Committee on Civil Rights & Judiciary. The substitute bill changed the prohibition on the sale of consumer health data to a prohibition on selling consumer health data without authorization. It modified the geofencing prohibition to provide that it is unlawful to implement a geofence to collect data from a consumer who enters an in-person health facility: geofencing around the facility is not illegal by itself. It also added several exemptions for deidentified health care information. These changes significantly weakened the bill. It passed the House, but there were a significant number of no votes (57 yeas, 39 nays, 2 excused).

In the Senate, the bill passed out of the Senate Committee on Law & Justice with one additional amendment, extending the effective date of the bill until March 31, 2024. On April 5 it passed the Senate (27 yeas, 21 nays, 1 excused), but with the House amendments removed.

On April 17 the House concurred with the Senate version of HB 1155 that provided stronger privacy protections (yeas, 57; nays, 40; absent, 0; excused, 1). On April 27th it was signed by the Governor. It is now law.

HB 1204 Implementing the family connections program. This bill establishes the Family Connections Program, a pilot program, as a permanent program. Currently, the Department of Children, Youth, and Families contracts with Amara to operate the program in King, Pierce, Mason, Clark, Grays Harbor, Pacific, Kitsap, and Skamania counties. The program facilitates interaction between a parent of a child who is dependent and in out-of-home care and the person with whom the child is placed. The facilitated contact benefits the child, the parent, and the foster parent.

A substitute bill for HB 1204 expanded the process by which families may be referred, to allow referral in any manner determined to be appropriate by the Program, specifically including a referral by the parent or caregiver. It unanimously passed the House Committee on Human Services, Youth, & Early Learning. A 2nd substitute bill which added a clause making the bill null and void unless funded in the budget unanimously passed the House Appropriations Committee. The bill passed the House with all present voting yes.

In the Senate, it unanimously passed the Human Services Committee and the Senate Ways & Means Committee. On April 10 it passed the Senate floor vote unanimously.

The 2nd substitute bill added a clause that would make the bill null and void unless funded in the budget.

No reconciliation or concurrence was required. On April 20 it was signed by the Governor. It is now law.

SB 5036 Concerning telemedicine. It extended the time frame (until 07/2024) in which real-time telemedicine, using audio or audio-video technology may be used. Telemedicine has provided increased access to medical and behavioral health services during the pandemic. This bill extends these benefits.

On February 1 it passed the Senate (48 yeas, 1 excused). In the House, it passed the Health Care & Wellness Committee unanimously. On March 20 the House passed the bill with a unanimous vote of those present.

No reconciliation or concurrence was required. The Governor signed it on March 30. It is now law.

Bills that have passed both the Senate and the House, and are awaiting the Governor's signature.

HB 1134 Implementing the 988 behavioral health crisis response and suicide prevention system. This bill has several provisions regarding the 988 crisis hotline, mostly changes and enhancements due things learned during the initial implementation. It extends several dates related to reporting, and funding of the crisis call centers; establishes liability protection for activities related to the dispatching decisions of 988 crisis hotline staff, directs the Department of Health to develop informational materials and a social media campaign to promote the 988 crisis hotline, directs the University of Washington to establish a crisis training and secondary trauma program for personnel in the behavioral health crisis system, and establishes mobile rapid response crisis teams to respond to the 988 calls when needed.

A 1st substitute bill was passed by the House Committee on Health Care & Wellness and was further changed by a 2nd substitute bill passed by the House Appropriations Committee. The combined changes in the substitute bills required that persons contacting the 988 crisis hotline be screened to see if they were part of the agricultural community and if they would prefer to be connected to an agricultural hotline and required that dispatch protocols be developed for transferring 988 calls to rapid response crisis teams. They also required that 988 rapid response

crisis teams include appropriately credentialed and supervised staff from a behavioral health agency but excludes law enforcement. The required response time in rural areas also is gradually lowered from 60 minutes to being on route within 10 minutes in 2027.

The substitute bill eliminates the University of Washington from responsibility for establishing a program of crisis training and instead establishes the UW School of Social Work as responsible for collaboration among the parties involved in providing the service and other stakeholders. Amendments were added in the Senate Health The amendment & Long Term Care Committee. The amendment expanded the definition of "community-based crisis team" to include teams which are part of a nonprofit crisis response provider, required the Crisis hubs to prominently display 988 crisis hotline information on their social media, and required behavioral health administrative services organizations to convene an annual crisis continuum of care forum with participation from regional crisis system partners (funded by Health Care Authority).

A substitute bill successfully moved through the House Committees, Health Care & Wellness and Appropriations. It passed the House on March 6th with all those present voting yes. It passed the Senate Health & Long-Term Care Committee on March 28 as amended and the Senate Ways & Means Committee on April 3rd. On April 8 it passed the Senate by a unanimous vote of all those present.

On April 18 the House concurred with the Senate amendments to the bill (yeas, 70; nays, 27; absent, 0; excused, 1). It awaits the Governor's signature.

HB 1168 Providing prevention services, diagnoses, treatment, and support for prenatal substance exposure. This bill would provide for increased access to services for children with fetal alcohol spectrum disorders and other prenatal substance disorders, as well as increasing prevention efforts.

The 1st substitute bill specifies that the provider contract for prenatal substance exposure treatment and family support applies to children over the age of 3 and makes the services optional instead of required. It expanded the scope of the bill to include exposure to prenatal substances other than alcohol. A 2nd substitute bill required that the Department of Children, Youth, and Families contract with at least three agencies across the state to provide comprehensive treatment services for prenatal substance exposure and family supports for children exposed to substances before birth who are, or were, involved with the child welfare system. An amendment added to the bill by the Senate Ways and Means Committee changed the agency contracting with providers to the Health Care Authority and to contract with the University of Washington to provide training and support for treatment providers. An additional amendment was added on the Senate floor

A substitute bill passed the House Committee on Health Care & Wellness and a second substitute bill passed the House Appropriations Committee. It passed the House on March 7 with all present voting yes. It then moved to the Senate. It passed the Senate Health & Long-Term Care Committee on March 28 and an amended version passed the Senate Ways & Means Committee. It passed unanimously in the Senate on April 7.

On April 13 the House by a unanimous vote of all present concurred with the Senate version of **HB 1168**. It awaits the signature of the Governor.

HB 1188 Concerning individuals with developmental disabilities that have also received child welfare services. This bill provides that services through the Children's Intensive Behavior Support Services waiver may supplement the child welfare services that a child may be receiving; may be provided to children in out-of-home placement and may be provided even if the family is subject to an unresolved child protective services referral. These are services that would be available to children who qualified if they were living with a parent and not in an out of home placement.

A substitute bill applied the bill prospectively; applied it to children in tribal dependencies; added a requirement that a qualifying person must begin receiving waiver services before they are 25 in order for the entitlement to receive waiver services to apply; required that the Department of Social and Health Services, in collaboration with the Department of Children, Youth, and Families, seek a new Medicaid waiver to meet the needs of dependent children and youth age 20 and under who have developmental disabilities; and delayed the effective date of the provisions outlining caseload forecasting and the entitlement to waiver services to January 1, 2025. The 2nd substitute bill added a null and void clause that would make the bill null and void unless funded in the budget.

The bill had a public hearing in the House Committee on Human Services, Youth, & Early Learning. A substitute bill was passed out of the House Committee on Human Services, Youth, & Early Learning unanimously and a second substitute bill also was voted out of the House Appropriations Committee unanimously. The passed it with all present voting yes. On March 9th a public hearing was held in the Senate Human Services Committee. It was voted out of committee unanimously on March 14th and referred to the Senate Ways & Means Committee. It passed the Ways & Means Committee unanimously on April 3. On April 8 it passed the Senate unanimously.

On April 17 the House concurred with the Senate amendments by a unanimous vote of all those present. It awaits the Governor's signature.

SB 5120 An act relating to establishing crisis relief centers in Washington state. (Previously named, Establishing 23-hour crisis relief centers in Washington state). This bill provides for the

establishment of 23-hour crisis relief centers. These are community-based facilities open 24-7, offering access to brief care (<24 hours) for adults experiencing a mental health or substance use crisis. They would accept walk-ins and drop-offs from ambulance, fire, and police.

The substitute bill specified that the Centers serve only adults. It expanded the definition of first responder, indicated that the Center is limited to minor wound care, requires that the Center have access to a provider who can prescribe medication and must have access to medication, and requires that standards be developed to determine medical stability before a person can be dropped off by EMT services.

The 2nd substitute bill shortened deadline for the Department of Health to create rules for 23-hour crisis relief centers (CRCs) from January 1, 2025, to January 1, 2024, allowed a police officer who has reasonable cause to believe an individual has committed a crime to take the individual to a CRC., and amended the title of the bill to, “An act relating to establishing crisis relief centers in Washington state”.

A substitute bill passed the Senate Committee on Health & Long Term Care with one Do Not Pass vote. A second substitute bill passed the Senate Ways & Means Committee (22 Do Pass, 3 Refer Without Recommendation). The bill passed the Senate with a unanimous vote of those present. In the House, the Health Care & Wellness Committee passed the substitute bill unanimously. It passed the House Appropriations Committee unanimously on April 3rd. On April 7th it passed the House with a unanimous vote of all those present.

The House and Senate versions of the bill need to be reconciled. On April 13 the Senate refused to concur with the House amendments. The House receded from its amendments and unanimously passed the Senate version of **SB 5120** on April 20th. It awaits the Governor’s signature.

SB 5189 Establishing behavioral health support specialists. The bill establishes the profession of behavioral health support specialist. To be eligible for this designation the person must have a bachelor's degree, have completed an accredited behavioral health support specialist educational program, and have passed an exam. The educational program must include a supervised clinical practicum. This person would practice under the supervision of a licensed behavioral health provider. Establishing this profession would increase the behavioral health workforce and free behavioral health professionals to work at the top of their scope of practice.

A substitute bill unanimously passed the Senate Committee on Health & Long-Term Care and the Senate Ways and Means Committee. In addition to the paths to the credential that are specified in the original bill, the substitute bill allowed applicants to complete a registered apprenticeship in combination with an approved bachelor’s degree or postbaccalaureate

certificate. It also directed insurance carriers to provide access to behavioral health support specialists in a manner sufficient to meet network access standards by July 1, 2025.

In the House, the bill unanimously passed in the Health Care & Wellness Committee and passed in the Appropriations Committee with amendments (to require insurance companies to provide access to these services rather than access to providers of these services). On April 6 it was passed on the House floor unanimously.

On April 14 the Senate concurred with the House amendments by a unanimous vote of all present. On April 20th it was sent to the Governor for his signature.

Bills That Have Died

Many of these bills had companion bills that passed.

HB 1021/SB 5354 Aligning social worker licensing requirements. These are companion bills. The bills would change (lessen) the number of hours of supervision required for licensure for social workers, marriage and family counselors, and mental health counselors to align with national standards, thus facilitating licensure in Washington State for persons licensed in other states. This change is particularly important for military spouses.

- **HB 1021** It unanimously passed the House Committee on Postsecondary Education & Workforce Committee on January 20 and was sent to the House Rules Committee for review. It was not put on the House calendar for a vote and it now dead.
- **SB 5354** It was referred to the Senate Health & Long-Term Care Committee on January 13. No public hearing was scheduled. This bill is dead.

HB 1027 Concerning telemedicine. HB 1027 extended the time frame (until 07/2024) in which real-time telemedicine, using audio or audio-video technology may be used. It was not voted out of committee and died. However, its companion bill SB 5036 passed the House and the Senate and was signed into law on March 30.

HB 1041 Authorizing the prescriptive authority of psychologists. This bill would authorize specially trained psychologists to prescribe medication, thus adding additional prescribing providers to the behavioral health workforce. There are five other states where psychologists are allowed to prescribe.

- The bill had a public hearing in the House Committee on Health Care & Wellness on January 13. The committee did not vote on it and it is now dead.

HB 1348 Establishing behavioral health support specialists. The bill establishes the profession of behavioral health support specialist. To be eligible for this designation the person must have a bachelor's degree, have completed an accredited behavioral health support specialist educational program, and have passed an exam. The educational program must include a supervised clinical practicum. This person would practice under the supervision of a licensed behavioral health provider. Establishing this profession would increase the behavioral health workforce and free behavioral health professionals to work at the top of their scope of practice.

The bill had a public hearing in the House Committee on Health Care & Wellness on January 27. However, the committee did not vote on it and the bill is dead. A companion bill, **SB 5189**, is awaiting the Governor's signature.

HB 1654/SB 5506 Establishing an enhanced behavior support homes model. These are companion bills. They establish an enhanced behavior support homes program. This program would provide intensive behavioral services and support so that individuals with intellectual and developmental disabilities who also have challenging behaviors that cannot be safely managed in the typical supported housing situation, could live in a community setting rather than being institutionalized.

The substitute bill passed by the Senate Committee on Human Services removes mention of delayed egress devices, devices that provide staff with alerts about movements in the home. and moves responsibility for the program to DSHS rather than Commerce.

- **HB 1654** was referred to the House Committee on Human Services, Youth, & Early Learning. However, no public hearing was scheduled, and the bill is dead.
- **SB 5506** had a public hearing in the Senate Committee on Human Services on January 25th and February 2. On February 7, a substitute bill was passed with one Nay vote and the bill was referred to the Senate Ways & Means Committee. A public hearing was held in the Senate Ways & Means Committee. Although it was scheduled for Executive Session, no vote was taken. The bill is dead.

HB 1718/SB 5095 Concerning the "parks Rx" health and wellness pilot programs. These bills establish a minimum of three 2-year pilot programs that will incentivize residents, particularly those from communities experiencing inequities or without ready access to physical fitness facilities, to regularly use public parks and recreation sites in order to enable better physical and mental health outcomes, and decrease visits to hospitals and clinics. The effectiveness of the pilot programs would be evaluated.

- **HB 1718** The bill was referred to the House Committee on Health Care & Wellness, but no public hearing was scheduled. The bill is dead.

- **SB 5095** The bill had a public hearing in the Senate Committee on Health & Long-Term Care. It was passed out of committee (with one Nay vote) and referred to the Senate Ways and Means Committee on January 24. A public hearing was held in that committee and on February 24 it was moved out of the Senate Ways & Means Committee and referred to the Senate Rules Committee. The bill is now dead.

SB 5422 Providing access to behavioral health services to children using licensed clinicians co-located within the school. This bill requires that managed care organizations reimburse a behavioral health agency for providing medically necessary behavioral health services in a school setting to students in that school who are enrolled in a Medicaid program. Allowing for reimbursement for services provided in a school setting would allow more children who need services to access them. It would eliminate many barriers to treatment due to time, distance, or transportation.

- The bill was referred to the Senate Health & Long-Term Care Committee. No public hearing was scheduled. The bill is dead.

SB 5710 Providing access to behavioral health services to youth in rural and underserved areas. This bill provides for access to behavioral health services to youth in rural and underserved areas. It creates a grant program to provide students attending school in rural areas with access to a mental health professional using telemedicine.

- The bill was referred to the Senate Early Learning & K-12 Education Committee. It had a public hearing and was voted out of Committee on February 13 (5 Ayes, 4 Nays). It was referred to the Senate Ways and Means Committee where it was scheduled for a public hearing on February 18. No further action was taken, and the bill is dead.

HB 1479/SB 5559 Concerning restraint or isolation of students in public schools and educational programs. These are companion bills. The bills prohibit students from being subjected to isolation, mechanical restraint, or chemical restraint by school staff except when there is imminent likelihood of serious harm. Isolation rooms must remain unlocked and must be phased out by January 1, 2024. School districts must carry out trainings and other activities to support the elimination of isolation and chemical restraint and to reduce the use of restraint in schools.

The 1st substitute bill delayed the date of the prohibition on student isolation to August 1, 2025, made student isolation and restraint provisions applicable to all providers of public educational services, required reporting of room clears, directs that student isolation and restraint policies be reviewed and revised with input from appropriate members of the community, requires updating of professional development plans, and requires a report on a

plan for integrating instruction on student isolation and restraint requirements into educator preparation programs and paraeducator certificate requirements.

The 2nd substitute bill added room clears to the types of incidents that the bill addresses. It revised the date by which student isolation is prohibited, extending the date to the effective date of the act for students in prekindergarten through grade 2, and to January 1, 2026 for students in grade 3 through 12. The date when isolation rooms must be removed or repurposed is extended to January 1, 2026. It clarified that the use of physical force prohibited in the bill did not include temporarily touching or holding a student's hand, shoulder or back for the purpose of guiding them.

- **HB 1479** A substitute bill passed the House Committee on Education (8 Do Pass, 7 Do Not Pass). A second substitute bill passed the House Appropriations Committee (20 Do Pass, 9 Do Not Pass, 1 Refer Without Recommendation). The House passed the second substitute bill (63 yeas, 31 nays, and 4 excused). In the Senate, a public hearing was held in the Senate Committee on Early Learning & K-12 Education. No vote was taken on the bill and it is now dead.
- **SB 5559** was referred to the Senate Committee on Early Learning & K-12 Education and a public hearing was held February 6. No vote was taken by the Committee and the bill is now dead.

SB 5130 Concerning assisted outpatient treatment. When deemed appropriate, this bill provides for a less restrictive mental health treatment option than inpatient hospitalization for persons who have been involuntarily committed.

Amendments were made to the bill before passing the Senate. The amendments changed the burden of proof for a petition for assisted outpatient treatment from clear, cogent, and convincing evidence to a preponderance of the evidence. A behavioral health case manager may provide the supporting declaration for the petition. The declaration provided by the treating mental health provider does not have to be cosigned by a supervising physician, physician assistant, or ARNP.

The bill passed the Senate Committee on Law & Justice (10 Pass votes, 1 Refer Without Recommendation). It passed the Senate unanimously with amendments. In the House, it passed the Committee on Civil Rights & Judiciary on March 28 and the House Appropriations Committee on April 4. It passed the Senate on April 12.

On April 17 the Senate refused to concur with the House amendments and asked the House to recede from its amendments. On April 23 the House returned it to Senate Rules Committee. No further action was taken and the bill is dead for this session.

SB 5351 Addressing the collection, sharing, and selling of consumer health data (aka, Washington, My Health, My Data Act). Generally, people assume that their healthcare information is private, and this privacy is protected by a federal law, HIPAA. However, health data collected by certain apps and websites is not covered. This bill closes these gaps in privacy protections for healthcare data. Privacy is particularly important in regard to certain sensitive healthcare data such as reproductive health care, gender-affirming care, and behavioral health diagnoses. Exposure of an individual's healthcare information could have negative consequences, and concerns about exposure might hinder someone from seeking health information or care.

The bill was referred to the Senate Law & Justice Committee. No public hearing was held and it is now dead. A companion bill, **HB 1155**, passed the House and Senate and awaits the Governor's signature.

SB 5426 Implementing the family connections program. This bill establishes the Family Connections Program, a pilot program, as a permanent program. Currently, the Department of Children, Youth, and Families contracts with Amara to operate the program in King, Pierce, Mason, Clark, Grays Harbor, Pacific, Kitsap, and Skamania counties. The program facilitates interaction between a parent of a child who is dependent and in out-of-home care and the person with whom the child is placed. The facilitated contact benefits the child, the parent, and the foster parent.

It passed the Senate Committee on Human Services but did not make it out of the Senate ways & Means Committee. It is dead. However, a companion bill, **HB 1204**, passed the House and the Senate and was signed by the Governor.

How You Can Be Involved

- Local Leagues in Washington have action chairs who coordinate action teams. Some local Leagues have health care teams to take action locally. Contact your local League action chair to find out and join.
- You may also express your opinion on legislation with the LWVWA issue chairs. We will take your perspectives into consideration as we determine our support for legislation and prepare testimony. Mary Lynne Courtney, Behavioral Health Issue Chair, mlcourtney@lwvwa.org.
- Another way to be involved is to join the Healthcare Affinity Group meetings on Zoom. The group meets every six weeks during the legislative session. If you are interested, please email Kim Abbey at kabbey48@gmail.com for the date of the next meeting and a link.