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Governor's Proposed Budgets: Impact on *Braam* Foster Care Requirements

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In December 2008, Governor Gregoire released her proposed biennial and supplemental budgets to the 2009 State Legislature. Some of the budget cuts or defunded programs directly relate to the *Braam v. Washington* foster care settlement agreement. Plaintiffs' attorneys, who filed a Motion to Enforce the settlement agreement last year and prevailed on the Motion in June 2008, are concerned that those budget cuts, if implemented by the Legislature, will hamper the success the Department had made on *Braam* requirements. Below is a list of items that the Governor has recommended cutting or eliminating in her proposed budgets. Plaintiffs' attorneys will continue to review the Governor's budget, as well as legislative budgets, for possible effects on *Braam*.

HIGHEST PRIORITY

SERVICES TO ADOLESCENTS

Foster Care to 21 (Indeterminate cost¹)

Independent Youth Housing Program (\$1 million)

Each of the last three years (2006 - 2008) the Foster Care to 21 program allowed up to 50 youth over 18 years of age to continue in foster care or group care as needed to participate in or complete a post-high school academic or vocational program and to receive necessary support and transition services. The federal Fostering Connections to Success and Increasing Adoptions Act of 2008, effective October 2010, will provide *matching federal dollars* for the FC to 21 program for almost all youth that age out, assuming the state takes advantage of the option.²

The Independent Youth Housing Program (IYHP) provides housing stipends and case management services to youth, ages 18 to 23, who exit the state dependency system. The IYHP was established to ensure that all youth exiting the state dependency system have a decent, appropriate, and affordable home in a healthy, safe environment to prevent these youth from experiencing homelessness, and to reduce each year the percentage of young people eligible for state assistance upon exiting the state dependency system.

The Governor's 2009-11 proposed Biennial budget eliminates both programs, though it allows youth currently enrolled in FC to 21 (71 as of March 2009) to stay in the program until their 21st birthday. The IYHP will terminate on July 1, 2009, unless the Legislature reinstates the program.

¹ The cost to allow youth already enrolled in Foster Care to 21 to complete the program is \$697,000. These funds are in the Governor's proposed budget. However, it is unclear what the cost is to keep enrollment open to at least 50 youth per year. Plaintiffs' attorneys believe that keeping enrollment open is the minimum required by the Implementation Plan. In addition, the State match to fully implement Fostering Connections is unclear.

² HB 1961 would implement the relevant part of the Fostering Connections Act in Washington State.

The *Braam* Settlement Agreement requires that the Department “[o]ffer support services to foster youth until age 21” and to change policy to allow continuing services to these youth. In April 2007, the requirement was marked “complete” by the *Braam* Oversight Panel, largely because of the existence of the Foster Care to 21 program, though Plaintiffs’ attorneys do not agree that the program alone is extensive enough for compliance.

CONCERNING CUTS THAT COULD IMPACT BRAAM

Behavioral Rehabilitation Services (BRS) (\$1.4 million)

This program uses intensive resources to create an environment in which supervised group and/or family living are integrated into a set of comprehensive services where positive behavioral support methods and environmental structure are provided for children with mental, developmental, emotional, and/or behavioral difficulties that exceed the service or supervision capacity of regular foster care families. Clients may be self-injurious, high risk, behaviorally or emotionally disordered, developmentally disturbed or medically fragile. In the 2007 - 2009 Biennium, the Legislature increased the BRS rate by 10%.

The Governor’s 2009 Supplemental budget decreased this rate to its 2008 level—a 5% rollback occurred on February 1, 2009. The Governor’s Biennial budget did not assume a continuation of the 10% rate, and thus, it is conceivable that the 10% rate will return on July 1, 2009.

The *Braam* Settlement Agreement requires that “[e]ach child in the custody of the Department shall have a safe and stable placement with a caregiver capable of meeting the child’s needs,” and “[c]aregivers shall be adequately trained, supported and informed about children for whom they provide care so that the caregivers are capable of meeting their responsibilities for providing for the children in their care.”

The Department has indicated that it will hasten its efforts to find permanent homes for the high-needs children placed in BRS settings. However, Plaintiffs’ attorneys have concerns that the Department does not have enough therapeutic foster homes or enough homes with specialized training to care for these children with significant emotional and behavioral problems. If the rate cut leads to fewer placement options, it will threaten the Department’s compliance with the Implementation Plan.

OTHER BRAAM-RELATED PROGRAM ELIMINATIONS

The programs below are not necessarily required by the *Braam* settlement agreement or the Implementation Plan. However, each was designed to improve one or more *Braam* areas in which the Department was required to demonstrate progress. Thus, while elimination of these programs would not necessarily render the Department out of compliance, reduction of funding or programs in these areas may further threaten the Department’s ability to reach the relevant *Braam* Benchmarks.

***PLACEMENT STABILITY and FOSTER PARENT TRAINING AND INFORMATION
Intensive Resource Foster Homes (\$124,000)***

In 2008, the Legislature enacted House Bill 3145, which required the Department to “select two or more geographic areas for implementing an intensive resource foster home pilot program.” The Department was required to “examine areas where high concentrations of children with significant needs are in foster care; consider areas of appropriate size that will allow for an analysis of the impact of the program on the continuum of out-of-home care providers; and determine the number of children to be served.” The goal in establishing the intensive resource foster home pilot was for the eventual expansion of the program statewide to “enhance the continuum of care options and to promote permanency and positive outcomes for children served in the child welfare system by authorizing the [the Department] to contract for intensive resource home services...”

The Governor’s 2009-11 proposed Biennial budget eliminates funding for this program.
“Funding for...intensive resource foster homes...is eliminated.”

The *Braam* Settlement Agreement requires that “[e]ach child in the custody of the Department shall have a safe and stable placement with a caregiver capable of meeting the child’s needs,” and “[c]aregivers shall be adequately trained, supported and informed about children for whom they provide care so that the caregivers are capable of meeting their responsibilities for providing for the children in their care.” While this specific program is not the only program that can address this requirement, the Department must continue to make progress in this area, thus funding that supports this requirement should not be cut.

MENTAL HEALTH

Centers for Foster Care Health (\$144,000); Nurse Consultation Line (\$44,000)

The Center for Foster Care Health (CFCH) project was developed by the Department in collaboration with Harborview Medical Center, Sacred Heart in Spokane, and the Child and Adolescent Clinic in Longview in response to the need for special health care for children in foster care in Washington State. The goal was to develop centers of excellence, both to provide care and to disseminate best practices to pediatricians and others who provide medical care for children in foster care.

The Nurse Consultation Hotline was intended to be administered by the Health and Recovery Services Administration (HRSA) in collaboration with the Department. HRSA has already received initial funding from the Legislature for FY 2009. The Nurse Consultation Line was intended to provide services not only to children entering care but will serve as a resource to all children in the class and their caregivers. The Department argues that the use of Nurse Consultation Lines to provide professional expertise to patients is a well established practice both in Washington State and nationally. For instance, Texas has recently implemented a 24/7 Foster Care Nurse Consultation Line. The Department and HRSA are consulting with Texas regarding the design and implementation of their line.” The Department intended for the Nurse Consultation Line to collaborate with the CFCH to ensure access to primary and specialty care for children in out-of-home placement.

The Governor's 2009 Supplemental budget eliminated these programs—the CFCH were part of the Governor's November 2008 reductions. It appears the Nurse Consultation Hotline may be restored in House Bill 1694.

The *Braam* Implementation Plan requires the Department to conduct an individualized medical examination within 72-hours for each child entering out-of-home care. The Department refused to do this and instead offered to “provide initial health screens to children entering care through a twenty-four hour nurse consultation line.” The Department also noted that “the nurse consultation line will...collaborate with the Centers for Foster Care Health in Spokane, Seattle and Longview to ensure access to primary and specialty care for children in out-of-home placement.” The refusal of the Department to conduct 72-hour medical exams has resulted in a finding of non-compliance by the *Braam* Panel, however, elimination of these two programs will remove any argument that they are complying with the spirit of the agreement in this area. Plaintiffs' attorneys do not believe that these two specific programs are the only programs that can lead to compliance, but some program will be necessary in order to conduct and coordinate the medical exams.