A BILL FOR AN ACT

CONCERNING REFORMS TO CHILD WELFARE SERVICES PROGRAMS FOR CHILDREN WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill makes changes to a program (program) within the department of human services (department) for children and youth with intellectual and developmental disabilities or co-occurring disorders (children and youth). The scope of rules to be promulgated by the department for the program is expanded to include planning for services
for children and youth who become 18 years of age while in the program; access to behavioral health services; wait list management; process for a child or youth who is at risk for out-of-home placement; and program evaluation.

Current law only allows for a county department of human or social services to submit an application to the program for a child or youth. The bill extends this option to the parent or legal guardian of the child or youth, and extends all notification requirements related to the program to the parent or legal guardian as well.

The bill updates reimbursement provisions so that if a child or youth is not in the custody of a county department of human or social services or the department, the department shall directly reimburse the licensed provider where the child or youth is placed.

Beginning on or before September 1, 2020, the department is required to compile and make public an annual report on the program.

Be it enacted by the General Assembly of the State of Colorado:

1 SECTION 1. In Colorado Revised Statutes, 26-5-102, amend (3) and (4); and add (3.5) as follows:

26-5-102. Provision of child welfare services - system reform goals - out-of-home placements for children and youth with intellectual and developmental disabilities - reporting - rules - definitions. (3) (a) On or before August 1, 2018, the state department shall develop a program to serve children and youth with intellectual and developmental disabilities OR CO-OCCURRING DISORDERS, AS DEFINED IN SUBSECTION (4) OF THIS SECTION, who are placed by county departments of human or social services in a licensed out-of-home setting as defined in section 26-6-102 (33) OR WHO ARE AT RISK OF OUT-OF-HOME PLACEMENT, AS DEFINED IN SUBSECTION (4) OF THIS SECTION, and children or youth committed to or in the custody of the state department.

(b) The state department shall promulgate rules concerning the placement of children or youth in the program. The rules must include, but need not be limited to, quality assurance monitoring; admissions;
discharge planning, INCLUDING PLANNING FOR SERVICES FOR CHILDREN AND YOUTH WHO REACH EIGHTEEN YEARS OF AGE WHILE IN THE PROGRAM; appropriate length of stay; ACCESS TO BEHAVIORAL HEALTH SERVICES; A PROCESS FOR SELECTION CRITERIA AND WAIT LIST MANAGEMENT; PROGRAM EVALUATION; and an appeals process for children or youth who are determined to be ineligible for the program.

(c) On or before December 31, 2018, the state department shall contract with a licensed provider for the delivery of services to children and youth with intellectual and developmental disabilities who are placed in the program. The state department shall utilize a request for proposal process to define the scope of the contract and to select the licensed provider.

(d) A county department that wishes OR THE PARENT OR LEGAL GUARDIAN OF A CHILD OR YOUTH THAT SEEKS to place a child or youth in the program shall submit an application to the state department for review. The state department shall approve admissions into the program and determine discharge criteria for each placement. A county department OR PARENT OR LEGAL GUARDIAN OF A CHILD OR YOUTH that has applied for the admission of a child or youth into the program shall MUST be notified in writing of a placement approved OR DENIED by the state department.

(e) For the duration of the treatment, as defined in the approval letter from the state department, and for thirty days after the completion of treatment, the county department responsible for the placement of the child or youth in the program must be reimbursed by the state department for one hundred percent of the costs associated with the approved placement. IF THE CHILD OR YOUTH WAS NOT PLACED BY A COUNTY
DEPARTMENT OR THE CHILD OR YOUTH IS NOT IN THE CUSTODY OF THE
COUNTY DEPARTMENT OR THE STATE DEPARTMENT, THE STATE
DEPARTMENT SHALL DIRECTLY REIMBURSE THE LICENSED PROVIDER FOR
THE PLACEMENT.

(f) The state department shall notify the county department OR
PARENT OR LEGAL GUARDIAN OF A CHILD OR YOUTH that is responsible for
the placement of the child or youth of the date on which the
reimbursement eligibility will expire, AND THAT THE NEXT CLINICALLY
RECOMMENDED LEVEL OF CARE FOR THE CHILD OR YOUTH IS AVAILABLE
BEFORE REIMBURSEMENT ELIGIBILITY EXPIRES. DISCHARGE PLANNING
MUST ADDRESS THE NEXT CLINICALLY RECOMMENDED LEVEL OF CARE FOR
THE CHILD OR YOUTH AND BE AVAILABLE PRIOR TO DISCHARGE. Upon
expiration of the reimbursement eligibility, if the child or youth remains
in placement at the facility, the county department OR PARENT OR LEGAL
GUARDIAN OF THE CHILD OR YOUTH THAT ORIGINALLY REQUESTED AND IS
RESPONSIBLE FOR THE PLACEMENT OF THE CHILD OR YOUTH is responsible
for one hundred percent of the placement costs, UNTIL THE CHILD OR
YOUTH IS DISCHARGED FROM THE FACILITY; EXCEPT THAT THE STATE
DEPARTMENT REMAINS RESPONSIBLE FOR REIMBURSEMENT ELIGIBILITY IF
A STATE COURT ORDERS THE PLACEMENT AND EXCEPT THAT THE COUNTY
DEPARTMENT IS AUTHORIZED TO UTILIZE CHILD WELFARE BLOCK GRANT
FUNDS FOR THE PLACEMENT, INCLUDING THE STATE AND FEDERAL
GOVERNMENT SHARE OF THOSE FUNDS FOR THESE PURPOSES.

(g) A county department OR A PARENT OR LEGAL GUARDIAN OF A
CHILD OR YOUTH that has placed a child or youth in the program retains
the right to remove the child or youth from the program any time prior to
the discharge date specified by the state department.
(h) The state department shall reimburse the provider one hundred percent of the cost of unutilized beds in the program to ensure available space for emergency residential out-of-home placements.

(i) (I) Entities other than county departments, including but not limited to hospitals, health care providers, single entry point agencies, MANAGED CARE ENTITIES, COMMUNITY MENTAL HEALTH CENTERS, and community-centered boards, may refer a family to voluntarily apply and assist with the application to the state department for admission of the family's child or youth with intellectual and developmental disabilities OR CO-OCCURRING DISORDERS into the program pursuant to this subsection (3). Such applications will be considered if space is available. However, children and youth with intellectual and developmental disabilities placed by county departments or the state department shall have priority for admission to the program; IF DEEMED ELIGIBLE FOR THE PROGRAM BUT SPACE IS UNAVAILABLE, THE CHILD OR YOUTH WILL BE LISTED ON THE WAIT LIST.

(II) The state department shall not accept applications for placement of a child or youth who is exclusively insured by private insurance UNTIL PRIVATE INSURANCE FUNDING AND SERVICES ARE EXHAUSTED OR SERVICES ARE DEEMED UNAVAILABLE. A child or youth who is NOT IN THE CUSTODY OF A COUNTY DEPARTMENT AND IS dually insured by private insurance and medicaid and whose residential level of care has been denied by private insurance may be eligible for services in the program; EXCEPT THAT ATTEMPTS MUST FIRST BE MADE TO QUALIFY THE CHILD OR YOUTH FOR OTHER LICENSED OUT-OF-HOME TREATMENT SERVICES THROUGH MEDICAID AND OTHER POTENTIAL SOURCES OF FUNDING, SUCH AS THE "CHILDREN AND YOUTH MENTAL HEALTH
TREATMENT ACT", CREATED PURSUANT TO ARTICLE 67 OF TITLE 27.

(III) The state department shall promulgate rules to establish criteria for admission to the program. The criteria may include, but need not be limited to, risk or acuity of the youth. In establishing the criteria, the state department shall convene a stakeholder process to include input from counties, advocacy organizations, community-centered boards, hospitals, and other interested community members.

(IV) The state department shall promulgate rules to establish the application process for a child or youth who is at risk of out-of-home placement but who is not in the custody of a county department.

(j) Any entity defined in subsection (3)(i) of this section that receives placement approval from the state department shall contract directly with the provider for such placement and is responsible for the costs associated with the placement. The state department shall directly reimburse the licensed facility for all placements made pursuant to the program.

(j.5) For a child or youth who is not in the custody of a county department, the state department is not expected to provide individualized case management services for such child or youth who is seeking to gain eligibility to the program. If applicable and not duplicate, other case management services may be available to assist the child or youth and the family through a community mental health center, managed care entity, community-centered board, hospital, or other appropriated involved entity. For a child or youth who is in the
CUSTODY OF A COUNTY DEPARTMENT, APPROPRIATE CASE MANAGEMENT SERVICES, REFERRALS, AND SUPPORT MUST CONTINUE IN PARTNERSHIP WITH THE STATE DEPARTMENT.

(k) The state department may maintain up to three open beds specifically for children and youth in the custody of a county or committed to or in the custody of the state department who may need services on an emergency basis.

(3.5) On or before September 1, 2020, and on or before each September 1 thereafter, the state department shall post a publicly available report on its website concerning the program established pursuant to this section for children and youth with intellectual and developmental disabilities or co-occurring disorders. The state department shall make every effort to provide available baseline data from the program’s initial year of service for the purpose of the reports required by this subsection (3.5). Notwithstanding the provisions of section 24-1-136 (11)(a)(I), the reporting requirements of this subsection (3.5) continue indefinitely. The report must include, at a minimum:

(a) Nonidentifying demographic information about the children and youth accessing the program, including age, county of residence or region to meet safe harbor guidelines, the number of children who have applied and been denied, the common reasons for denials, and average length of time spent in the program;

(b) The average length of wait time for children and youth on the wait list;
(c) The most common reasons for discharge;

(d) Aggregated information about the child's or youth's expected placement following discharge;

(e) The total number of referrals to the program, including those who do not choose to be listed on the wait list; and

(f) The most frequently referring entities.

(4) As used in this section, unless the context otherwise requires:

(a) "At risk of out-of-home placement" means a child or youth who:

(I) (A) Is entering the Division of Youth Services; or

(B) Is at risk of child welfare involvement;

(II) Is eligible for medical assistance pursuant to Article 4, 5, or 6 of this title 25.5; and

(III) (A) Has an intellectual and developmental disability as defined in section 25.5-6-403;

(B) Has been diagnosed as having a mental health disorder, defined as one or more substantial disorders of the cognitive, volitional, or emotional processes that grossly impair judgment or capacity to recognize reality or to control behavior; and

(C) May require a level of care that is provided in a residential child care facility, inpatient psychiatric hospital, or other intensive care setting outside of the child's or youth's home.

(b) "Co-occurring disorder" means an intellectual and
DEVELOPMENTAL DISABILITY, AS DEFINED IN SECTION 25.5-6-403, AND A
MENTAL HEALTH DISORDER, DEFINED AS ONE OR MORE SUBSTANTIAL
DISORDERS OF THE COGNITIVE, VOLITIONAL, OR EMOTIONAL PROCESSES
THAT GROSSLY IMPAIRS JUDGMENT OR CAPACITY TO RECOGNIZE REALITY
OR TO CONTROL BEHAVIOR.

(c) "County department" means a county department of human or
social services.

(d) "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" HAS THE
SAME MEANING AS SET FORTH IN SECTION 25.5-6-403.

SECTION 2. Safety clause. The general assembly hereby finds,
determines, and declares that this act is necessary for the immediate
preservation of the public peace, health, or safety.