

Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 22-0805.01 Jane Ritter x4342

HOUSE BILL 22-1283

HOUSE SPONSORSHIP

Michaelson Jenet and Bradfield, Amabile, Gonzales-Gutierrez

SENATE SPONSORSHIP

Buckner and Priola,

House Committees

Public & Behavioral Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING ENHANCED RESIDENTIAL SERVICES FOR PERSONS WITH
102 BEHAVIORAL HEALTH NEEDS.

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 implements the recommendations of the behavioral health transformational task force concerning youth and family residential care. Specifically, the bill:

- Creates in-home and residential respite care in 10-12 regions of the state for children and families;
- Provides operational support for psychiatric residential

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

treatment facilities and qualified residential treatment programs for youth; and

- Provides funds to build and staff a neuro-psych facility at the Colorado mental health institute at Fort Logan.

The bill requires the general assembly to appropriate money from the behavioral and mental health cash fund to the department of human services to implement the provisions of the bill.

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

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) During the COVID-19 pandemic, children and youth faced
5 unprecedented behavioral health challenges;

6 (b) During this unprecedented time, children, youth, and their
7 families may have lost access to, or needed increased availability of,
8 behavioral and mental health care;

9 (c) Since the COVID-19 pandemic began, rates of psychological
10 distress among youth have increased, including symptoms of anxiety,
11 depression, and other behavioral and mental health disorders;

12 (d) Additional in-home and residential respite care services and
13 facilities for children and families must be created in ten to twelve
14 regions of the state to meet the increased need;

15 (e) Funding for additional operational support is critical for
16 psychiatric residential treatment facilities and qualified residential
17 treatment programs for youth across the state;

18 (f) It is crucial to begin the process of building and staffing a
19 neuro-psych facility with a capacity of up to sixteen beds for youth less
20 than twenty-one years of age at the Colorado mental health institute at
21 Fort Logan; and

22 (g) The federal government enacted the "American Rescue Plan

1 Act of 2021" to provide support to state, local, and tribal governments in
2 responding to the impact of the COVID-19 pandemic.

3 (2) The general assembly further declares that:

4 (a) Children, youth, and families have been disproportionately
5 impacted by the COVID-19 pandemic and its negative public health
6 impacts, especially the behavioral health of children, youth, and families.

7 The programs and services funded by the federal money in this act are
8 appropriate uses of the money transferred to Colorado under the
9 "American Rescue Plan Act". This money will expand access to
10 evidence-based treatment for behavioral health services, including
11 additional in-home and residential respite care; operational support that
12 is critical for psychiatric residential treatment facilities and qualified
13 residential treatment programs for youth across the state; and building and
14 staffing a neuro-psych facility with a capacity of up to sixteen beds for
15 youth less than twenty-one years of age at the Colorado mental health
16 institute at Fort Logan; and

17 (b) The services described in this act are critical government
18 services.

19 **SECTION 2.** In Colorado Revised Statutes, 27-60-103, **add** (1.5)
20 as follows:

21 **27-60-103. Behavioral health crisis response system - services**
22 **- request for proposals - criteria - reporting - rules - definition -**
23 **repeal.** (1.5) (a) BEGINNING JANUARY 1, 2023, THE STATE DEPARTMENT
24 SHALL CREATE IN-HOME AND RESIDENTIAL RESPITE CARE SERVICES AND
25 FACILITIES FOR CHILDREN AND FAMILIES IN TEN TO TWELVE REGIONS OF
26 THE STATE, AS DETERMINED BY THE STATE DEPARTMENT AND A
27 COMMITTEE OF INTERESTED STAKEHOLDERS.

1 (b) (I) FOR THE 2022-23 BUDGET YEAR, THE GENERAL ASSEMBLY
2 SHALL APPROPRIATE MONEY FROM THE BEHAVIORAL AND MENTAL HEALTH
3 CASH FUND PURSUANT TO SECTION 24-75-230 TO THE STATE DEPARTMENT
4 TO FUND IN-HOME AND RESIDENTIAL RESPITE CARE ACROSS THE STATE AS
5 DESCRIBED IN THIS SUBSECTION (1.5).

6 (II) MONEY SPENT PURSUANT TO THIS SUBSECTION (1.5) MUST
7 CONFORM WITH THE ALLOWABLE PURPOSES SET FORTH IN THE FEDERAL
8 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS THE ACT MAY
9 BE SUBSEQUENTLY AMENDED. THE STATE DEPARTMENT SHALL EITHER
10 SPEND OR OBLIGATE SUCH APPROPRIATION PRIOR TO DECEMBER 30, 2024,
11 AND EXPEND THE APPROPRIATION ON OR BEFORE DECEMBER 31, 2026.

12 (III) THIS SUBSECTION (1.5)(b) IS REPEALED, EFFECTIVE
13 SEPTEMBER 1, 2027.

14 (c) (I) FOR THE PURPOSES OF THIS SUBSECTION (1.5), RESPITE CARE
15 IS PROVIDED IN A FOSTER CARE HOME, OTHER THAN THE CURRENT FOSTER
16 CARE HOME WHERE THE CHILD OR YOUTH IN FOSTER CARE RESIDES.
17 RESPITE CARE IS USED TO ALLOW THE FOSTER PARENT A TEMPORARY
18 BREAK FROM PROVIDING CARE. RESPITE CARE IS ALSO USED WHEN A CHILD
19 OR YOUTH IN FOSTER CARE NEEDS A TEMPORARY BREAK FROM THE CHILD'S
20 OR YOUTH'S CURRENT FOSTER CARE HOME.

21 (II) A NON-EMERGENCY RESPITE CARE OCCASION MAY NOT
22 EXCEED THIRTY CALENDAR DAYS, WITH A MAXIMUM OF SIXTY DAYS PER
23 CALENDAR YEAR; EXCEPT THAT THE CERTIFYING AGENCY, CASEWORKER,
24 AND GUARDIAN AD LITEM MAY APPROVE EXCEPTIONS IN EXCESS OF SIXTY
25 DAYS PER YEAR.

26 (III) NON-EMERGENCY RESPITE CARE MAY NOT EXCEED THE
27 IDENTIFIED CAPACITY OF THE RESPITE FOSTER CARE HOME.

1 (IV) A SIBLING GROUP MAY BE CONSIDERED A SINGLE PLACEMENT
2 FOR RESPITE CARE.

3 (V) SPACE REQUIREMENTS FOR RESPITE CARE SPECIFIED BY RULE
4 APPLY.

5 (VI) EMERGENCY RESPITE CARE THAT CAUSES THE FOSTER CARE
6 HOME TO EXCEED THE IDENTIFIED CAPACITY MUST NOT OCCUR FOR MORE
7 THAN SEVEN CONSECUTIVE DAYS PER MONTH AND MUST NOT EXCEED
8 TWENTY-EIGHT DAYS IN A CALENDAR YEAR. THE RESPITE FOSTER CARE
9 HOME MAY NOT EXCEED MORE THAN TWO CHILDREN OR YOUTH IN FOSTER
10 CARE ABOVE THE HOME'S IDENTIFIED CAPACITY AND AGE RANGE.

11 (VII) THE RESPITE FOSTER CARE HOME MUST BE IN COMPLIANCE
12 WITH ALL OTHER APPLICABLE RULES REGULATING FOSTER CARE HOMES.

13 (d) THE STATE DEPARTMENT AND ANY PERSON THAT RECEIVES
14 MONEY FROM THE STATE DEPARTMENT SHALL COMPLY WITH THE
15 COMPLIANCE, REPORTING, RECORD-KEEPING, AND PROGRAM EVALUATION
16 REQUIREMENTS ESTABLISHED BY THE OFFICE OF STATE PLANNING AND
17 BUDGETING AND THE STATE CONTROLLER IN ACCORDANCE WITH SECTION
18 24-75-226 (5).

19 **SECTION 3.** In Colorado Revised Statutes, 27-60-113, **amend**
20 (2), (3), (7) introductory portion, and (9) as follows:

21 **27-60-113. Out-of-home placement for children and youth**
22 **with mental or behavioral needs - report - rules - funding - legislative**
23 **declaration - repeal.** (2) (a) On or before August 1, 2021, the state
24 department shall develop a program to provide emergency resources to
25 licensed providers to help remove barriers such providers face in serving
26 children and youth whose behavioral or mental health needs require
27 services and treatment in a residential child care facility. Any such

1 licensed provider shall meet the requirements of a qualified residential
2 treatment program, as defined in section 26-5.4-102, a psychiatric
3 residential treatment facility, as defined in section 26-5.4-103 (19.5), or
4 therapeutic foster care, as defined in section 26-6-102 (39).

5 (b) (I) BEGINNING JULY 1, 2022, THE STATE DEPARTMENT SHALL
6 PROVIDE OPERATIONAL SUPPORT FOR PSYCHIATRIC RESIDENTIAL
7 TREATMENT FACILITIES FOR YOUTH AND QUALIFIED RESIDENTIAL
8 TREATMENT PROGRAMS FOR YOUTH ACROSS THE STATE.

9 (II) FOR THE 2022-23 BUDGET YEAR, THE GENERAL ASSEMBLY
10 SHALL APPROPRIATE MONEY FROM THE BEHAVIORAL AND MENTAL HEALTH
11 CASH FUND PURSUANT TO SECTION 24-75-230 TO THE STATE DEPARTMENT
12 TO FUND OPERATIONAL SUPPORT FOR PSYCHIATRIC RESIDENTIAL
13 TREATMENT FACILITIES FOR YOUTH AND QUALIFIED RESIDENTIAL
14 TREATMENT PROGRAMS FOR YOUTH ACROSS THE STATE AS DESCRIBED IN
15 THIS SUBSECTION (2).

16 (III) MONEY SPENT PURSUANT TO THIS SUBSECTION (2) MUST
17 CONFORM WITH THE ALLOWABLE PURPOSES SET FORTH IN THE FEDERAL
18 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS THE ACT MAY
19 BE SUBSEQUENTLY AMENDED. THE STATE DEPARTMENT SHALL EITHER
20 SPEND OR OBLIGATE SUCH APPROPRIATION PRIOR TO DECEMBER 30, 2024,
21 AND EXPEND THE APPROPRIATION ON OR BEFORE DECEMBER 31, 2026.

22 (IV) THIS SUBSECTION (2)(b) IS REPEALED, EFFECTIVE SEPTEMBER
23 1, 2027.

24 (c) THE STATE DEPARTMENT AND ANY PERSON THAT RECEIVES
25 MONEY FROM THE STATE DEPARTMENT SHALL COMPLY WITH THE
26 COMPLIANCE, REPORTING, RECORD-KEEPING, AND PROGRAM EVALUATION
27 REQUIREMENTS ESTABLISHED BY THE OFFICE OF STATE PLANNING AND

1 BUDGETING AND THE STATE CONTROLLER IN ACCORDANCE WITH SECTION
2 24-75-226 (5).

3 (3) The state department may promulgate rules concerning the
4 placement of a child or youth in the program. The rules may address
5 quality assurance monitoring, admissions, discharge planning, appropriate
6 length of stay, an appeals process for children and youth who are
7 determined ineligible for the program, and compliance with applicable
8 federal law, including the federal "Family First Prevention Services Act"
9 AND WAIVERS FOR CERTAIN REQUIREMENTS OF SUCH ACT; except that rules
10 concerning the placement of a child or youth who is not in the custody of
11 a state or county department of human or social services ~~shall~~ MUST not
12 inappropriately apply compliance with such act.

13 (7) ~~No later than November 1, 2022, 2023, and 2024~~ ON OR
14 BEFORE NOVEMBER 1, 2023, AND EVERY NOVEMBER 1 THEREAFTER, the
15 state department shall submit a written report to the house of
16 representatives public and behavioral health and human services
17 committee, the senate health and human services committee, or their
18 successor committees, and the joint budget committee. At a minimum, the
19 report must include:

20 (9) This section is repealed, effective ~~July 1, 2025~~ JULY 1, 2028.

21 **SECTION 4.** In Colorado Revised Statutes, **add** 27-94-107 as
22 follows:

23 **27-94-107. Youth neuro-psych facility at the center - funding**
24 **- repeal.** (1) BEGINNING JULY 1, 2022, THE DEPARTMENT OF HUMAN
25 SERVICES SHALL BEGIN THE PROCESS OF BUILDING AND STAFFING A
26 NEURO-PSYCH FACILITY AT THE CENTER. THE NEURO-PSYCH FACILITY
27 MUST HAVE A CAPACITY OF UP TO SIXTEEN RESIDENTIAL BEDS FOR YOUTH

1 WHO ARE LESS THAN TWENTY-ONE YEARS OF AGE.

2 (2) (a) (I) FOR THE 2022-23 BUDGET YEAR, THE GENERAL
3 ASSEMBLY SHALL APPROPRIATE MONEY FROM THE BEHAVIORAL AND
4 MENTAL HEALTH CASH FUND PURSUANT TO SECTION 24-75-230 TO THE
5 DEPARTMENT OF HUMAN SERVICES TO FUND OPERATIONAL SUPPORT FOR
6 PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FOR YOUTH AND
7 QUALIFIED RESIDENTIAL TREATMENT PROGRAMS FOR YOUTH ACROSS THE
8 STATE AS DESCRIBED IN THIS SUBSECTION (2).

9 (II) MONEY SPENT PURSUANT TO THIS SUBSECTION (2) MUST
10 CONFORM WITH THE ALLOWABLE PURPOSES SET FORTH IN THE FEDERAL
11 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS THE ACT MAY
12 BE SUBSEQUENTLY AMENDED. THE DEPARTMENT OF HUMAN SERVICES
13 SHALL EITHER SPEND OR OBLIGATE SUCH APPROPRIATION PRIOR TO
14 DECEMBER 30, 2024, AND EXPEND THE APPROPRIATION ON OR BEFORE
15 DECEMBER 31, 2026.

16 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1,
17 2027.

18 (3) THE DEPARTMENT OF HUMAN SERVICES AND ANY PERSON THAT
19 RECEIVES MONEY FROM THE DEPARTMENT OF HUMAN SERVICES SHALL
20 COMPLY WITH THE COMPLIANCE, REPORTING, RECORD-KEEPING, AND
21 PROGRAM EVALUATION REQUIREMENTS ESTABLISHED BY THE OFFICE OF
22 STATE PLANNING AND BUDGETING AND THE STATE CONTROLLER IN
23 ACCORDANCE WITH SECTION 24-75-226 (5).

24 **SECTION 5. Safety clause.** The general assembly hereby finds,
25 determines, and declares that this act is necessary for the immediate
26 preservation of the public peace, health, or safety.