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

CONCERNING ENHANCED RESIDENTIAL SERVICES FOR PERSONS WITH 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
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.

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

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

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

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

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

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

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

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

(g) The federal government enacted the "American Rescue Plan
Act of 2021" to provide support to state, local, and tribal governments in responding to the impact of the COVID-19 pandemic.

(2) The general assembly further declares that:

(a) Children, youth, and families have been disproportionately impacted by the COVID-19 pandemic and its negative public health impacts, especially the behavioral health of children, youth, and families. The programs and services funded by the federal money in this act are appropriate uses of the money transferred to Colorado under the "American Rescue Plan Act". This money will expand access to evidence-based treatment for behavioral health services, including additional in-home and residential respite care; operational support that is critical for psychiatric residential treatment facilities and qualified residential treatment programs for youth across the state; and building and staffing a neuro-psych facility with a capacity of up to sixteen beds for youth less than twenty-one years of age at the Colorado mental health institute at Fort Logan; and

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

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

(b) (I) For the 2022-23 budget year, the General Assembly shall appropriate money from the behavioral and mental health cash fund pursuant to section 24-75-230 to the State Department to fund in-home and residential respite care across the state as described in this subsection (1.5).

(II) Money spent pursuant to this subsection (1.5) must conform with the allowable purposes set forth in the federal "American Rescue Plan Act of 2021", Pub.L. 117-2, as the act may be subsequently amended. The State Department shall either spend or obligate such appropriation prior to December 30, 2024, and expend the appropriation on or before December 31, 2026.

(III) This subsection (1.5)(b) is repealed, effective September 1, 2027.

(c) (I) For the purposes of this subsection (1.5), respite care is provided in a foster care home, other than the current foster care home where the child or youth in foster care resides. Respite care is used to allow the foster parent a temporary break from providing care. Respite care is also used when a child or youth in foster care needs a temporary break from the child's or youth's current foster care home.

(II) A non-emergency respite care occasion may not exceed thirty calendar days, with a maximum of sixty days per calendar year; except that the certifying agency, caseworker, and guardian ad litem may approve exceptions in excess of sixty days per year.

(III) Non-emergency respite care may not exceed the identified capacity of the respite foster care home.
(IV) A SIBLING GROUP MAY BE CONSIDERED A SINGLE PLACEMENT FOR RESPITE CARE.

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

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

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

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

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

27-60-113. Out-of-home placement for children and youth with mental or behavioral needs - report - rules - funding - legislative declaration - repeal. (2) (a) On or before August 1, 2021, the state department shall develop a program to provide emergency resources to licensed providers to help remove barriers such providers face in serving children and youth whose behavioral or mental health needs require services and treatment in a residential child care facility. Any such
licensed provider shall meet the requirements of a qualified residential treatment program, as defined in section 26-5.4-102, a psychiatric residential treatment facility, as defined in section 26-5.4-103 (19.5), or therapeutic foster care, as defined in section 26-6-102 (39).

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

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

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

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

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

(3) The state department may promulgate rules concerning the placement of a child or youth in the program. The rules may address quality assurance monitoring, admissions, discharge planning, appropriate length of stay, an appeals process for children and youth who are determined ineligible for the program, and compliance with applicable federal law, including the federal "Family First Prevention Services Act" and waivers for certain requirements of such act; except that rules concerning the placement of a child or youth who is not in the custody of a state or county department of human or social services shall not inappropriately apply compliance with such act.

(7) No later than November 1, 2022, 2023, and 2024 or before November 1, 2023, and every November 1 thereafter, the state department shall submit a written report to the house of representatives public and behavioral health and human services committee, the senate health and human services committee, or their successor committees, and the joint budget committee. At a minimum, the report must include:

(9) This section is repealed, effective July 1, 2025.

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

27-94-107. Youth neuro-psych facility at the center - funding - repeal. (1) Beginning July 1, 2022, the department of human services shall begin the process of building and staffing a neuro-psych facility at the center. The neuro-psych facility must have a capacity of up to sixteen residential beds for youth.
WHO ARE LESS THAN TWENTY-ONE YEARS OF AGE.

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

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

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

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

SECTION 5. 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.