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, add with amended and relocated provisions 26-5-116 as follows:

26-5-116. [Formerly 27-60-113] Out-of-home placement for children and youth with mental or behavioral needs - funding - report - rules - legislative declaration - repeal. (1) (a) The general assembly finds and declares that:
(I) The COVID-19 pandemic has lead to an emergency need for increased placements for children and youth with behavioral or mental health needs, including those involved with the child welfare system; and
(II) As the state works to transition to the critical requirements of the federal "Family First Prevention Services Act", it must ensure a smooth transition by helping existing residential child care facilities transition to qualified residential treatment programs or psychiatric residential treatment facilities.

(b) Therefore, the general assembly declares that the state should provide resources to qualified residential treatment programs, psychiatric residential treatment facilities, or therapeutic foster care providers to address this emergency situation and ensure there are high-quality providers available to meet these needs.

(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 sections 26-5.4-103 (19.5) and 25.5-4-103 (19.5); treatment foster care; or therapeutic foster care, as defined in section 26-6-102 (39).

(b) (I) BEGINNING JULY 1, 2022, THE STATE DEPARTMENT SHALL PROVIDE ONGOING OPERATIONAL SUPPORT FOR PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES, THERAPEUTIC FOSTER CARE, TREATMENT FOSTER CARE, AND QUALIFIED RESIDENTIAL TREATMENT PROGRAMS AS DESCRIBED IN SUBSECTION (2)(a) OF THIS SECTION.

(II) FOR THE 2022-23 BUDGET YEAR, THE GENERAL ASSEMBLY SHALL APPROPRIATE MONEY FROM THE BEHAVIORAL AND MENTAL HEALTH
CASH FUND CREATED IN SECTION 24-75-230 TO THE STATE DEPARTMENT TO FUND OPERATIONAL SUPPORT FOR PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FOR YOUTH, QUALIFIED RESIDENTIAL TREATMENT PROGRAMS, THERAPEUTIC FOSTER CARE, AND TREATMENT FOSTER CARE 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 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 who 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"; 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 MUST not inappropriately apply compliance with such act.

(4) (a) On or before December 31, 2021, the state department shall contract with licensed providers for the delivery of services to children and youth who are determined eligible for and placed in the program. A provider that contracts with the state department shall not:

(I) Deny admittance of a child or youth if the child or youth otherwise meets the eligibility criteria for the program; or

(II) Discharge a child or youth based on the severity or complexity of the child’s or youth’s physical, behavioral, or mental health needs; except that the state department may arrange for the placement of a child or youth with an alternate contracted provider if the placement with the alternate provider is better suited to deliver services that meet the needs of the child or youth.

(b) The state department shall reimburse a provider directly for the costs associated with the placement of a child or youth in the program for the duration of the treatment, including the costs the provider demonstrates are necessary in order for the provider to operate continuously during this period.

(c) The state department shall coordinate with the department of health care policy and financing to support continuity of care and payment for services for any children or youth placed in the program.

(d) 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.

(5) (a) A hospital, health-care provider, provider of case management services, school district, managed care entity, or state or county department of human or social services may refer a family for the
placement of a child or youth in the program. The entity referring a child
or youth for placement in the program shall submit or assist the family
with submitting an application to the state department for review. The
state department shall consider each application as space becomes
available. The state department shall approve admissions into the program
and determine admission and discharge criteria for placement.

(b) The state department shall develop a discharge plan for each
child or youth placed in the program. The plan must include the eligible
period of placement of the child or youth and shall identify the entity that
will be responsible for the placement costs if the child or youth remains
with the provider beyond the date of eligibility identified in the plan.

(c) The entity or family that places the 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.

(6) Within seven days after submitting an application to the state
department for placing a child or youth in the program, the state
department shall work with the referring entity and the child's or youth's
parents or legal guardians to ensure the child or youth is assessed for
eligibility for enrollment into the state medical assistance program. A
child or youth who is eligible for enrollment into the state medical
assistance program shall be enrolled. Enrollment of a child or youth into
the state medical assistance program does not constitute automatic
placement into the program.

(7) No later than November 1, 2022, 2023, and 2024 On 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:

(a) The number of applications received for placement of children and youth in the program;

(b) The number of children and youth accepted for placement in the program;

(c) The duration of each placement; and

(d) The daily rate paid to each provider for placement of children and youth.

(8) This section is intended to provide enhanced emergency services resulting from the increased need for services due to the COVID-19 pandemic. No later than September 30, 2024, the state department shall submit recommendations 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 about how to provide necessary services for children and youth in need of residential care, including hospital step-down services on an ongoing basis.

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

SECTION 3. In Colorado Revised Statutes, 27-60-103, add (1.5) as follows:

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

(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) Beginning in State fiscal year 2023-24, money
appropriated to the State Department for the purpose of this
subsection (1.5) must continue the statewide access to crisis
system services for children and youth established in section
26-5-116 that specifically targets in-home respite care until June
30, 2026;

(II) Beginning in the state fiscal year 2022-23, money
appropriated to the State Department for the purpose of
implementing this subsection (1.5) must support residential
respite care provided to youth involved in the foster care
system; and
(III) Respite foster care homes 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 5. In Colorado Revised Statutes, add 27-80-127 as follows:

27-80-127. Children and youth in need of residential mental health and substance use treatment -repeal. (1) On or before July 1, 2023, the Behavioral Health Administration, created pursuant to Part 2 of Article 60 of Title 27, shall create, develop, or contract to add additional residential substance use treatment beds for youth. To the greatest extent possible, the department shall ensure that both mental health and substance use treatment services are available in one residential location. The department shall work collaboratively with the Behavioral Health Administration for licensing and determining the greatest areas of need.

(2) (a) (I) For the 2022-23 budget year, the General Assembly shall appropriate five million dollars from the Behavioral and Mental Health Cash Fund, created pursuant to Section 24-75-230, to the department to expand substance use
RESIDENTIAL TREATMENT BEDS FOR ADOLESCENTS, AS DESCRIBED IN
SUBSECTION (I) OF THIS SECTION.

(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 AMENDED.
THE DEPARTMENT 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 6. In Colorado Revised Statutes, add 27-90-112 as
follows:

27-90-112. Youth neuro-psych facility at the center - funding
- repeal. (1) BEGINNING JULY 1, 2022, THE DEPARTMENT OF HUMAN
SERVICES SHALL BEGIN THE PROCESS TO CREATE, DEVELOP, OR CONTRACT
FOR A NEURO-PSYCH FACILITY. THE NEURO-PSYCH FACILITY MUST HAVE
A CAPACITY OF UP TO SIXTEEN RESIDENTIAL BEDS FOR COLORADO YOUTH
WHO ARE LESS THAN TWENTY-ONE YEARS OF AGE. THE DEPARTMENT
SHALL ENSURE ALL COLORADO CHILDREN AND YOUTH, REGARDLESS OF
CHILD WELFARE INVOLVEMENT, ARE ELIGIBLE FOR ADMISSION TO THE
FACILITY AS LONG AS THEY MEET CLINICAL CRITERIA AS ESTABLISHED BY
rule. The department shall not deny admittance to a Colorado child or youth, or discharge a Colorado child or youth, based on the severity or complexity of the child’s physical, behavioral, or mental health needs.

(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 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 7. 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.