

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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
Appropriations

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

21 **26-5-116. [Formerly 27-60-113] Out-of-home placement for**
22 **children and youth with mental or behavioral needs - funding -**
23 **report - rules - legislative declaration - repeal.** (1) (a) The general
24 assembly finds and declares that:

25 (I) The COVID-19 pandemic has lead to an emergency need for
26 increased placements for children and youth with behavioral or mental
27 health needs, including those involved with the child welfare system; and

1 (II) As the state works to transition to the critical requirements of
2 the federal "Family First Prevention Services Act", it must ensure a
3 smooth transition by helping existing residential child care facilities
4 transition to qualified residential treatment programs or psychiatric
5 residential treatment facilities.

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

11 (2) (a) On or before August 1, 2021, the state department shall
12 develop a program to provide emergency resources to licensed providers
13 to help remove barriers such providers face in serving children and youth
14 whose behavioral or mental health needs require services and treatment
15 in a residential child care facility. Any such licensed provider shall meet
16 the requirements of a qualified residential treatment program, as defined
17 in section 26-5.4-102; a psychiatric residential treatment facility, as
18 defined in ~~section 26-5.4-103 (19.5)~~ SECTION 25.5-4-103 (19.5);
19 TREATMENT FOSTER CARE; or therapeutic foster care. ~~as defined in section~~
20 ~~26-6-102 (39)~~.

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

26 (II) FOR THE 2022-23 BUDGET YEAR, THE GENERAL ASSEMBLY
27 SHALL APPROPRIATE MONEY FROM THE BEHAVIORAL AND MENTAL HEALTH

1 CASH FUND CREATED IN SECTION 24-75-230 TO THE STATE DEPARTMENT
2 TO FUND OPERATIONAL SUPPORT FOR PSYCHIATRIC RESIDENTIAL
3 TREATMENT FACILITIES FOR YOUTH, QUALIFIED RESIDENTIAL TREATMENT
4 PROGRAMS, THERAPEUTIC FOSTER CARE, AND TREATMENT FOSTER CARE
5 FOR YOUTH ACROSS THE STATE AS DESCRIBED IN THIS SUBSECTION (2).

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

12 (IV) THIS SUBSECTION (2)(b) IS REPEALED, EFFECTIVE SEPTEMBER
13 1, 2027.

14 (c) THE STATE DEPARTMENT AND ANY PERSON WHO RECEIVES
15 MONEY FROM THE STATE DEPARTMENT SHALL COMPLY WITH THE
16 COMPLIANCE, REPORTING, RECORD-KEEPING, AND PROGRAM EVALUATION
17 REQUIREMENTS ESTABLISHED BY THE OFFICE OF STATE PLANNING AND
18 BUDGETING AND THE STATE CONTROLLER IN ACCORDANCE WITH SECTION
19 24-75-226 (5).

20 ~~(3) The state department may promulgate rules concerning the~~
21 ~~placement of a child or youth in the program. The rules may address~~
22 ~~quality assurance monitoring, admissions, discharge planning, appropriate~~
23 ~~length of stay, an appeals process for children and youth who are~~
24 ~~determined ineligible for the program, and compliance with applicable~~
25 ~~federal law, including the federal "Family First Prevention Services Act";~~
26 ~~except that rules concerning the placement of a child or youth who is not~~
27 ~~in the custody of a state or county department of human or social services~~

1 ~~shall MUST not inappropriately apply compliance with such act.~~

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

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

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

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

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

22 (d) The state department shall reimburse the provider one hundred
23 percent of the cost of unutilized beds in the program to ensure available
24 space for emergency residential out-of-home placements.

25 (5) (a) A hospital, health-care provider, provider of case
26 management services, school district, managed care entity, or state or
27 county department of human or social services may refer a family for the

1 placement of a child or youth in the program. The entity referring a child
2 or youth for placement in the program shall submit or assist the family
3 with submitting an application to the state department for review. The
4 state department shall consider each application as space becomes
5 available. The state department shall approve admissions into the program
6 and determine admission and discharge criteria for placement.

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

12 (c) The entity or family that places the child or youth in the
13 program retains the right to remove the child or youth from the program
14 any time prior to the discharge date specified by the state department.

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

24 (7) ~~No later than November 1, 2022, 2023, and 2024~~ ON OR
25 BEFORE NOVEMBER 1, 2023, AND EVERY NOVEMBER 1 THEREAFTER, the
26 state department shall submit a written report to the house of
27 representatives public and behavioral health and human services

1 committee, the senate health and human services committee, or their
2 successor committees, and the joint budget committee. At a minimum, the
3 report must include:

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

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

8 (c) The duration of each placement; and

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

11 (8) This section is intended to provide enhanced emergency
12 services resulting from the increased need for services due to the
13 COVID-19 pandemic. No later than September 30, 2024, the state
14 department shall submit recommendations to the house of representatives
15 public and behavioral health and human services committee, the senate
16 health and human services committee, or their successor committees, and
17 the joint budget committee about how to provide necessary services for
18 children and youth in need of residential care, including hospital
19 step-down services on an ongoing basis.

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

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

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

1 STATE, AS DETERMINED BY THE STATE DEPARTMENT AND A COMMITTEE OF
2 INTERESTED STAKEHOLDERS.

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

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

14 (III) THIS SUBSECTION (1.5)(b) IS REPEALED, EFFECTIVE
15 SEPTEMBER 1, 2027.

16 [REDACTED]

17 (c) (I) BEGINNING IN STATE FISCAL YEAR 2023-24, MONEY
18 APPROPRIATED TO THE STATE DEPARTMENT FOR THE PURPOSE OF THIS
19 SUBSECTION (1.5) MUST CONTINUE THE STATEWIDE ACCESS TO CRISIS
20 SYSTEM SERVICES FOR CHILDREN AND YOUTH ESTABLISHED IN SECTION
21 26-5-116 THAT SPECIFICALLY TARGETS IN-HOME RESPITE CARE UNTIL JUNE
22 30, 2026;

23 (II) BEGINNING IN THE STATE FISCAL YEAR 2022-23, MONEY
24 APPROPRIATED TO THE STATE DEPARTMENT FOR THE PURPOSE OF
25 IMPLEMENTING THIS SUBSECTION (1.5) MUST SUPPORT RESIDENTIAL
26 RESPITE CARE PROVIDED TO YOUTH INVOLVED IN THE FOSTER CARE
27 SYSTEM; AND

1 (III) RESPITE FOSTER CARE HOMES MUST BE IN COMPLIANCE WITH
2 ALL OTHER APPLICABLE RULES REGULATING FOSTER CARE HOMES.

3 (d) THE STATE DEPARTMENT AND ANY PERSON THAT RECEIVES
4 MONEY FROM THE STATE DEPARTMENT SHALL COMPLY WITH THE
5 COMPLIANCE, REPORTING, RECORD-KEEPING, AND PROGRAM EVALUATION
6 REQUIREMENTS ESTABLISHED BY THE OFFICE OF STATE PLANNING AND
7 BUDGETING AND THE STATE CONTROLLER IN ACCORDANCE WITH SECTION
8 24-75-226 (5).

9 SECTION 4. In Colorado Revised Statutes, **repeal** 27-60-113.

10

11 SECTION 5. In Colorado Revised Statutes, **add** 27-80-127 as
12 follows:

13 **27-80-127. Children and youth in need of residential mental**
14 **health and substance use treatment -repeal.** (1) ON OR BEFORE JULY
15 1, 2023, THE BEHAVIORAL HEALTH ADMINISTRATION, CREATED PURSUANT
16 TO PART 2 OF ARTICLE 60 OF TITLE 27, SHALL CREATE, DEVELOP, OR
17 CONTRACT TO ADD ADDITIONAL RESIDENTIAL SUBSTANCE USE TREATMENT
18 BEDS FOR YOUTH. TO THE GREATEST EXTENT POSSIBLE, THE DEPARTMENT
19 SHALL ENSURE THAT BOTH MENTAL HEALTH AND SUBSTANCE USE
20 TREATMENT SERVICES ARE AVAILABLE IN ONE RESIDENTIAL LOCATION.
21 THE DEPARTMENT SHALL WORK COLLABORATIVELY WITH THE
22 BEHAVIORAL HEALTH ADMINISTRATION FOR LICENSING AND DETERMINING
23 THE GREATEST AREAS OF NEED.

24 (2) (a) (I) FOR THE 2022-23 BUDGET YEAR, THE GENERAL
25 ASSEMBLY SHALL APPROPRIATE FIVE MILLION DOLLARS FROM THE
26 BEHAVIORAL AND MENTAL HEALTH CASH FUND, CREATED PURSUANT TO
27 SECTION 24-75-230, TO THE DEPARTMENT TO EXPAND SUBSTANCE USE

1 RESIDENTIAL TREATMENT BEDS FOR ADOLESCENTS, AS DESCRIBED IN
2 SUBSECTION (1) OF THIS SECTION.

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

9 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1,
10 2027.

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

17 **SECTION 6.** In Colorado Revised Statutes, add 27-90-112 as
18 follows:

19 **27-90-112. Youth neuro-psych facility at the center - funding**
20 **- repeal.** (1) BEGINNING JULY 1, 2022, THE DEPARTMENT OF HUMAN
21 SERVICES SHALL BEGIN THE PROCESS TO CREATE, DEVELOP, OR CONTRACT
22 FOR A NEURO-PSYCH FACILITY. THE NEURO-PSYCH FACILITY MUST HAVE
23 A CAPACITY OF UP TO SIXTEEN RESIDENTIAL BEDS FOR COLORADO YOUTH
24 WHO ARE LESS THAN TWENTY-ONE YEARS OF AGE. THE DEPARTMENT
25 SHALL ENSURE ALL COLORADO CHILDREN AND YOUTH, REGARDLESS OF
26 CHILD WELFARE INVOLVEMENT, ARE ELIGIBLE FOR ADMISSION TO THE
27 FACILITY AS LONG AS THEY MEET CLINICAL CRITERIA AS ESTABLISHED BY

1 RULE. THE DEPARTMENT SHALL NOT DENY ADMITTANCE TO A COLORADO
2 CHILD OR YOUTH, OR DISCHARGE A COLORADO CHILD OR YOUTH, BASED
3 ON THE SEVERITY OR COMPLEXITY OF THE CHILD'S PHYSICAL, BEHAVIORAL,
4 OR MENTAL HEALTH NEEDS.

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

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

18 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1,
19 2027.

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

26 **SECTION 7. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, or safety.