

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Public & Behavioral Health & Human Services.

HB22-1283 be amended as follows:

1 Amend printed bill, page 3, after line 18 insert:

2 "SECTION 2. In Colorado Revised Statutes, **add with amended**
3 **and relocated provisions** 26-5-116 as follows:

4 **26-5-116. [Formerly 27-60-113] Out-of-home placement for**
5 **children and youth with mental or behavioral needs - funding -**
6 **report - rules - legislative declaration - repeal.** (1) (a) The general
7 assembly finds and declares that:

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

11 (II) As the state works to transition to the critical requirements of
12 the federal "Family First Prevention Services Act", it must ensure a
13 smooth transition by helping existing residential child care facilities
14 transition to qualified residential treatment programs or psychiatric
15 residential treatment facilities.

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

21 (2) (a) On or before August 1, 2021, the state department shall
22 develop a program to provide emergency resources to licensed providers
23 to help remove barriers such providers face in serving children and youth
24 whose behavioral or mental health needs require services and treatment
25 in a residential child care facility. Any such licensed provider shall meet
26 the requirements of a qualified residential treatment program, as defined
27 in section 26-5.4-102; a psychiatric residential treatment facility, as
28 defined in ~~section 26-5.4-103 (19.5)~~ SECTION 25.5-4-103 (19.5);
29 TREATMENT FOSTER CARE; or therapeutic foster care. ~~as defined in section~~
30 ~~26-6-102 (39).~~

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

36 (II) FOR THE 2022-23 BUDGET YEAR, THE GENERAL ASSEMBLY
37 SHALL APPROPRIATE MONEY FROM THE BEHAVIORAL AND MENTAL HEALTH
38 CASH FUND CREATED IN SECTION 24-75-230 TO THE STATE DEPARTMENT
39 TO FUND OPERATIONAL SUPPORT FOR PSYCHIATRIC RESIDENTIAL
40 TREATMENT FACILITIES FOR YOUTH, QUALIFIED RESIDENTIAL TREATMENT
41 PROGRAMS, THERAPEUTIC FOSTER CARE, AND TREATMENT FOSTER CARE

1 FOR YOUTH ACROSS THE STATE AS DESCRIBED IN THIS SUBSECTION (2).
2 (III) MONEY SPENT PURSUANT TO THIS SUBSECTION (2) MUST
3 CONFORM WITH THE ALLOWABLE PURPOSES SET FORTH IN THE FEDERAL
4 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS AMENDED.
5 THE STATE DEPARTMENT SHALL EITHER SPEND OR OBLIGATE SUCH
6 APPROPRIATION PRIOR TO DECEMBER 30, 2024, AND EXPEND THE
7 APPROPRIATION ON OR BEFORE DECEMBER 31, 2026.
8 (IV) THIS SUBSECTION (2)(b) IS REPEALED, EFFECTIVE SEPTEMBER
9 1, 2027.
10 (c) THE STATE DEPARTMENT AND ANY PERSON WHO RECEIVES
11 MONEY FROM THE STATE DEPARTMENT SHALL COMPLY WITH THE
12 COMPLIANCE, REPORTING, RECORD-KEEPING, AND PROGRAM EVALUATION
13 REQUIREMENTS ESTABLISHED BY THE OFFICE OF STATE PLANNING AND
14 BUDGETING AND THE STATE CONTROLLER IN ACCORDANCE WITH SECTION
15 24-75-226 (5).
16 ~~(3) The state department may promulgate rules concerning the~~
17 ~~placement of a child or youth in the program. The rules may address~~
18 ~~quality assurance monitoring, admissions, discharge planning, appropriate~~
19 ~~length of stay, an appeals process for children and youth who are~~
20 ~~determined ineligible for the program, and compliance with applicable~~
21 ~~federal law, including the federal "Family First Prevention Services Act";~~
22 ~~except that rules concerning the placement of a child or youth who is not~~
23 ~~in the custody of a state or county department of human or social services~~
24 ~~shall MUST not inappropriately apply compliance with such act.~~
25 (4) (a) On or before December 31, 2021, the state department shall
26 contract with licensed providers for the delivery of services to children
27 and youth who are determined eligible for and placed in the program. A
28 provider that contracts with the state department shall not:
29 (I) Deny admittance of a child or youth if the child or youth
30 otherwise meets the eligibility criteria for the program; or
31 (II) Discharge a child or youth based on the severity or complexity
32 of the ~~child~~ CHILD'S or youth's physical, behavioral, or mental health
33 needs; except that the state department may arrange for the placement of
34 a child or youth with an alternate contracted provider if the placement
35 with the alternate provider is better suited to deliver services that meet the
36 needs of the child or youth.
37 (b) The state department shall reimburse a provider directly for the
38 costs associated with the placement of a child or youth in the program for
39 the duration of the treatment, including the costs the provider
40 demonstrates are necessary in order for the provider to operate
41 continuously during this period.
42 (c) The state department shall coordinate with the department of
43 health care policy and financing to support continuity of care and

1 payment for services for any children or youth placed in the program.

2 (d) The state department shall reimburse the provider one hundred

3 percent of the cost of unutilized beds in the program to ensure available

4 space for emergency residential out-of-home placements.

5 (5) (a) A hospital, health-care provider, provider of case

6 management services, school district, managed care entity, or state or

7 county department of human or social services may refer a family for the

8 placement of a child or youth in the program. The entity referring a child

9 or youth for placement in the program shall submit or assist the family

10 with submitting an application to the state department for review. The

11 state department shall consider each application as space becomes

12 available. The state department shall approve admissions into the program

13 and determine admission and discharge criteria for placement.

14 (b) The state department shall develop a discharge plan for each

15 child or youth placed in the program. The plan must include the eligible

16 period of placement of the child or youth and shall identify the entity that

17 will be responsible for the placement costs if the child or youth remains

18 with the provider beyond the date of eligibility identified in the plan.

19 (c) The entity or family that places the child or youth in the

20 program retains the right to remove the child or youth from the program

21 any time prior to the discharge date specified by the state department.

22 (6) Within seven days after submitting an application to the state

23 department for placing a child or youth in the program, the state

24 department shall work with the referring entity and the child's or youth's

25 parents or legal guardians to ensure the child or youth is assessed for

26 eligibility for enrollment into the state medical assistance program. A

27 child or youth who is eligible for enrollment into the state medical

28 assistance program shall be enrolled. Enrollment of a child or youth into

29 the state medical assistance program does not constitute automatic

30 placement into the program.

31 (7) ~~No later than November 1, 2022, 2023, and 2024~~ ON OR

32 BEFORE NOVEMBER 1, 2023, AND EVERY NOVEMBER 1 THEREAFTER, the

33 state department shall submit a written report to the house of

34 representatives public and behavioral health and human services

35 committee, the senate health and human services committee, or their

36 successor committees, and the joint budget committee. At a minimum, the

37 report must include:

38 (a) The number of applications received for placement of children

39 and youth in the program;

40 (b) The number of children and youth accepted for placement in

41 the program;

42 (c) The duration of each placement; and

43 (d) The daily rate paid to each provider for placement of children

- 1 and youth.
- 2 (8) This section is intended to provide enhanced emergency
3 services resulting from the increased need for services due to the
4 COVID-19 pandemic. No later than September 30, 2024, the state
5 department shall submit recommendations to the house of representatives
6 public and behavioral health and human services committee, the senate
7 health and human services committee, or their successor committees, and
8 the joint budget committee about how to provide necessary services for
9 children and youth in need of residential care, including hospital
10 step-down services on an ongoing basis.
- 11 (9) This section is repealed, effective ~~July 1, 2025~~ JULY 1, 2028.".
- 12 Renumber succeeding sections accordingly.
- 13 Page 3, line 24, after "CREATE" insert "GEOGRAPHICALLY DISPERSED".
- 14 Page 3, strike lines 25 through 27 and substitute "FACILITIES FOR
15 CHILDREN AND FAMILIES.".
- 16 Page 4, line 15, strike "FOSTER CARE".
- 17 Page 4, lines 15 and 16, strike "FOSTER CARE".
- 18 Page 4, line 16, strike "IN FOSTER CARE".
- 19 Page 4, line 17, strike "THE FOSTER PARENT" and substitute "A PARENT OR
20 GUARDIAN".
- 21 Page 4, line 19, strike "IN FOSTER CARE".
- 22 Page 4, line 20, strike "FOSTER CARE".
- 23 Page 4, line 27, strike "FOSTER CARE".
- 24 Page 5, line 5, strike "FOSTER CARE".
- 25 Page 5, line 8, strike "FOSTER CARE".
- 26 Page 5, lines 9 and 10, strike "IN FOSTER CARE".
- 27 Page 5, line 11, strike "FOSTER CARE".
- 28 Page 5, strike lines 19 and 20 and substitute:

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

2 Page 5, strike lines 21 through 27.

3 Strike page 6.

4 Page 7, strike lines 1 through 20.

5 Page 7, strike lines 21 through 23 and substitute:

6 **"SECTION 5.** In Colorado Revised Statutes, **add** 27-80-127 as
7 follows:

8 **27-80-127. Children and youth in need of residential mental**
9 **health and substance use treatment -repeal.** (1) ON OR BEFORE JULY
10 1, 2023, THE BEHAVIORAL HEALTH ADMINISTRATION, CREATED PURSUANT
11 TO PART 2 OF ARTICLE 60 OF TITLE 27, SHALL CREATE, DEVELOP, OR
12 CONTRACT TO ADD ADDITIONAL RESIDENTIAL SUBSTANCE USE TREATMENT
13 BEDS FOR YOUTH. TO THE GREATEST EXTENT POSSIBLE, THE DEPARTMENT
14 SHALL ENSURE THAT BOTH MENTAL HEALTH AND SUBSTANCE USE
15 TREATMENT SERVICES ARE AVAILABLE IN ONE RESIDENTIAL LOCATION.
16 THE DEPARTMENT SHALL WORK COLLABORATIVELY WITH THE
17 BEHAVIORAL HEALTH ADMINISTRATION FOR LICENSING AND DETERMINING
18 THE GREATEST AREAS OF NEED.

19 (2) (a) (I) FOR THE 2022-23 BUDGET YEAR, THE GENERAL
20 ASSEMBLY SHALL APPROPRIATE FIVE MILLION DOLLARS FROM THE
21 BEHAVIORAL AND MENTAL HEALTH CASH FUND, CREATED PURSUANT TO
22 SECTION 24-75-230, TO THE DEPARTMENT TO EXPAND SUBSTANCE USE
23 RESIDENTIAL TREATMENT BEDS FOR ADOLESCENTS, AS DESCRIBED IN
24 SUBSECTION (1) OF THIS SECTION.

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

31 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1,
32 2027.

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

- 1 **SECTION 6.** In Colorado Revised Statutes, **add** 27-90-112 as
2 follows:
3 **27-90-112. Youth neuro-psych facility at the center - funding**.
- 4 Renumber succeeding section accordingly.
- 5 Page 7, line 25, strike "OF BUILDING AND STAFFING" and substitute "TO
6 CREATE, DEVELOP, OR CONTRACT FOR".
- 7 Page 7, line 26, strike "FACILITY AT THE CENTER." and substitute
8 "FACILITY".
- 9 Page 7, line 27, before "YOUTH" insert "COLORADO".
- 10 Page 8, line 1, after the period add "THE DEPARTMENT SHALL ENSURE ALL
11 COLORADO CHILDREN AND YOUTH, REGARDLESS OF CHILD WELFARE
12 INVOLVEMENT, ARE ELIGIBLE FOR ADMISSION TO THE FACILITY AS LONG AS
13 THEY MEET CLINICAL CRITERIA AS ESTABLISHED BY RULE. THE
14 DEPARTMENT SHALL NOT DENY ADMITTANCE TO A COLORADO CHILD OR
15 YOUTH, OR DISCHARGE A COLORADO CHILD OR YOUTH, BASED ON THE
16 SEVERITY OR COMPLEXITY OF THE CHILD'S PHYSICAL, BEHAVIORAL, OR
17 MENTAL HEALTH NEEDS".
- 18 Page 8, lines 11 and 12, strike "THE ACT MAY BE SUBSEQUENTLY".

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