

Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO

ENGROSSED

*This Version Includes All Amendments Adopted
on Second Reading in the House of Introduction*

LLS NO. 18-1085.01 Brita Darling x2241

HOUSE BILL 18-1328

HOUSE SPONSORSHIP

Young, Hamner, Rankin

SENATE SPONSORSHIP

Lambert and Moreno, Lundberg

House Committees
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CHILDREN'S HABILITATION RESIDENTIAL WAIVER**
102 **PROGRAM, AND, IN CONNECTION THEREWITH, MAKING AND**
103 **REDUCING AN APPROPRIATION.**

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/>.)

Joint Budget Committee. The bill directs the department of health care policy and financing (department) to initiate a stakeholder process for purposes of preparing and submitting a redesigned children's habilitation residential program (program) waiver for federal approval that allows for home- and community-based services for children with

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.

HOUSE
Amended 2nd Reading
March 28, 2018

intellectual and developmental disabilities who have complex behavioral support needs. The department may also request federal authorization to change the agency designated to administer and operate the program from the department of human services to the department.

The bill includes language creating the redesigned program, relocates the program in statute, and makes conforming changes in statute to reflect the new location of the program. The new program will become effective once federal approval has been granted for the redesigned children's habilitation residential program waiver.

The bill makes and reduces appropriations to the department and the department of human services to implement the bill.

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

2 **SECTION 1. Legislative declaration.** The general assembly
3 declares that children with intellectual and developmental disabilities who
4 also have complex behavioral support needs, where the exhibited
5 behavior results in danger to themselves, their families, or their
6 communities, should have access to services that support the children
7 remaining in or returning to their family homes, as well as crisis
8 stabilization and out-of-home services, when necessary.

9 **SECTION 2.** In Colorado Revised Statutes, 25.5-5-306, **add** (5)
10 and (6) as follows:

11 **25.5-5-306. Residential child health care - waiver - program**
12 **- rules - notice to revisor - repeal.** (5) (a) ON AND AFTER JULY 1, 2018,
13 THE STATE DEPARTMENT SHALL INITIATE A STAKEHOLDER PROCESS TO
14 DEVELOP ELIGIBILITY CRITERIA, SERVICE DEFINITIONS, AND PROVIDER
15 QUALIFICATIONS FOR PURPOSES OF DRAFTING AND SUBMITTING A
16 REDESIGNED WAIVER THAT PROVIDES HOME- AND COMMUNITY-BASED
17 SERVICES UNDER THE CHILDREN'S HABILITATION RESIDENTIAL PROGRAM
18 WAIVER FOR MEDICAID-ELIGIBLE CHILDREN WITH INTELLECTUAL AND
19 DEVELOPMENTAL DISABILITIES, AS DEFINED IN SECTION 25.5-10-202, WHO

1 HAVE COMPLEX BEHAVIORAL SUPPORT NEEDS. THE REDESIGNED WAIVER
2 MUST PROVIDE ACCESS TO SERVICES AND SUPPORTS THAT ALLOW A CHILD
3 OR YOUTH, REGARDLESS OF CUSTODY STATUS, TO REMAIN IN OR RETURN
4 TO HIS OR HER FAMILY HOME, INCLUDING BUT NOT LIMITED TO A CHILD OR
5 YOUTH IN THE CUSTODY OF A COUNTY DEPARTMENT OF HUMAN OR SOCIAL
6 SERVICES, WHILE ALSO PROVIDING CRISIS STABILIZATION AND
7 OUT-OF-HOME SERVICES WHEN NECESSARY.

8 (b) NO LATER THAN MARCH 31, 2019, THE STATE DEPARTMENT
9 SHALL SUBMIT THE REDESIGNED WAIVER FOR FEDERAL APPROVAL.

10 (c) ONCE THE WAIVER IS APPROVED, THE STATE BOARD SHALL
11 ADOPT RULES IMPLEMENTING THE REDESIGNED WAIVER.

12 (d) ON AND AFTER JULY 1, 2018, THE STATE DEPARTMENT MAY
13 SEEK FEDERAL AUTHORIZATION TO CHANGE THE AGENCY DESIGNATED TO
14 OPERATE AND ADMINISTER THE PROGRAM FROM THE DEPARTMENT OF
15 HUMAN SERVICES TO THE STATE DEPARTMENT.

16 (6) THIS SECTION WILL BE REPEALED IF THE FEDERAL DEPARTMENT
17 OF HEALTH AND HUMAN SERVICES APPROVES THE WAIVER REQUESTED
18 PURSUANT TO SUBSECTION (5) OF THIS SECTION. THE EXECUTIVE DIRECTOR
19 OF THE STATE DEPARTMENT SHALL NOTIFY THE REVISOR OF STATUTES IN
20 WRITING OF THE DATE ON WHICH THE CONDITION SPECIFIED IN THIS
21 SECTION HAS OCCURRED BY E-MAILING THE NOTICE TO
22 REVISOROFSTATUTES.GA@STATE.CO.US. THIS SECTION IS REPEALED,
23 EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE FEDERAL
24 DEPARTMENT OF HEALTH AND HUMAN SERVICES APPROVED THE WAIVER
25 OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE
26 NOTICE TO THE REVISOR OF STATUTES.

27 **SECTION 3.** In Colorado Revised Statutes, **add** 25.5-6-903 as

1 follows:

2 **25.5-6-903. Residential child health care program - waiver -**
3 **home- and community-based services - rules - repeal.** (1) SUBJECT TO

4 FEDERAL AUTHORIZATION, THE STATE DEPARTMENT SHALL IMPLEMENT A
5 PROGRAM FOR MEDICAID-ELIGIBLE CHILDREN WITH INTELLECTUAL AND
6 DEVELOPMENTAL DISABILITIES, AS DEFINED IN SECTION 25.5-10-202, WITH
7 SIGNIFICANT BEHAVIORAL SUPPORT NEEDS WHO ARE AT RISK OF
8 INSTITUTIONALIZATION. THE STATE BOARD SHALL ESTABLISH, BY RULE,
9 THE TYPE OF SERVICES PROVIDED PURSUANT TO THE PROGRAM, TO THE
10 EXTENT THE SERVICES ARE COST-EFFICIENT, AND THE RECIPIENT
11 ELIGIBILITY CRITERIA THAT MAY INCLUDE, BUT ARE NOT LIMITED TO, A
12 MEDICAL NECESSITY DETERMINATION AND A FINANCIAL ELIGIBILITY
13 DETERMINATION.

14 (2) THE STATE DEPARTMENT MAY LIMIT THE NUMBER OF
15 PARTICIPANTS IN THE PROGRAM IN ACCORDANCE WITH ANY FEDERAL
16 WAIVER OBTAINED BY THE STATE DEPARTMENT TO IMPLEMENT THIS
17 SECTION.

18 (3) THE STATE BOARD SHALL PROMULGATE RULES AS NECESSARY
19 FOR THE IMPLEMENTATION AND ADMINISTRATION OF THE PROGRAM,
20 INCLUDING BUT NOT LIMITED TO RULES REGARDING PROGRAM SERVICES;
21 ELIGIBILITY CRITERIA, INCLUDING FINANCIAL ELIGIBILITY CRITERIA; AND
22 REIMBURSEMENT OF PROVIDERS.

23 (4) THIS SECTION WILL TAKE EFFECT IF THE FEDERAL DEPARTMENT
24 OF HEALTH AND HUMAN SERVICES APPROVES A REDESIGNED CHILDREN'S
25 HABILITATION RESIDENTIAL PROGRAM WAIVER FOR MEDICAID-ELIGIBLE
26 CHILDREN WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AS
27 DEFINED IN SECTION 25.5-10-202, WHO HAVE COMPLEX BEHAVIORAL

1 SUPPORT NEEDS, PURSUANT TO HOUSE BILL 18-_____, AS ENACTED IN
2 2018. THE EXECUTIVE DIRECTOR OF THE STATE DEPARTMENT SHALL
3 NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE DATE ON WHICH THE
4 CONDITION SPECIFIED IN THIS SECTION HAS OCCURRED BY E-MAILING THE
5 NOTICE TO REVISOROFSTATUTES.GA@STATE.CO.US. THIS SECTION TAKES
6 EFFECT, EFFECTIVE UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE
7 FEDERAL DEPARTMENT OF HEALTH AND HUMAN SERVICES APPROVED THE
8 WAIVER OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE, UPON THE DATE
9 OF THE NOTICE TO THE REVISOR OF STATUTES.

10 **SECTION 4.** In Colorado Revised Statutes, 26-5-104, **amend**
11 (4)(d) as follows:

12 **26-5-104. Funding of child welfare services - rules - report -**
13 **provider contracts - funding mechanism review - definitions.**

14 (4) **Allocations.** (d) The state department may only seek additional
15 funding from the general assembly in a supplemental appropriations bill
16 based upon caseload growth, subject to the provisions of subsection (7)
17 of this section, or changes in federal law or federal funding. ~~For fiscal~~
18 ~~years 2006-07 and 2007-08, the state department may seek supplemental~~
19 ~~funding related to the implementation of the placement of children in a~~
20 ~~residential child health care program as specified in section 25.5-5-306,~~
21 ~~C.R.S.~~

22 **SECTION 5.** In Colorado Revised Statutes, 25.5-5-203, **amend**
23 (1)(m) as follows:

24 **25.5-5-203. Optional programs with special state provisions.**

25 (1) Subject to the provisions of subsection (2) of this section, this section
26 specifies programs developed by Colorado to increase federal financial
27 participation through selecting optional services or optional eligible

1 groups. These programs include but are not limited to:

2 (m) The program for residential child health care, as specified in
3 section ~~25.5-5-306~~ 25.5-6-903;

4 **SECTION 6.** In Colorado Revised Statutes, 25.5-5-402, **amend**
5 (2) introductory portion and (2)(a) as follows:

6 **25.5-5-402. Statewide managed care system.** (2) The managed
7 care system implemented pursuant to this ~~article~~ ARTICLE 5 shall not
8 include:

9 (a) The services delivered under the residential child health care
10 program described in section ~~25.5-5-306~~ 25.5-6-903, except in those
11 counties in which there is a written agreement between the county
12 department of HUMAN OR social services, the designated and contracted
13 behavioral health organization selected pursuant to section 25.5-5-411,
14 and the state department;

15 **SECTION 7.** In Colorado Revised Statutes, 27-67-103, **amend**
16 (2)(b) as follows:

17 **27-67-103. Definitions.** As used in this article 67, unless the
18 context otherwise requires:

19 (2) "Child at risk of out-of-home placement" means a child who,
20 although not otherwise categorically eligible for medicaid, meets the
21 following criteria:

22 (b) Requires a level of care that is provided in a residential child
23 care facility pursuant to section ~~25.5-5-306, C.R.S.~~ 25.5-6-903, or that is
24 provided through in-home or community-based programs and who,
25 without such care, is at risk of out-of-home placement;

26 **SECTION 8. Appropriation - adjustments to 2018 long bill.**

27 (1) To implement this act, the general fund appropriations made in the

1 annual general appropriation act for the 2018-19 state fiscal year to the
2 department of health care policy and financing and the related FTE are
3 increased as follows:

4 **Executive director's office, general administration**

5 Personal services	\$70,938 (1.8 FTE)
6 Health, life, and dental	\$3,964
7 Short-term disability	\$72
8 S.B. 04-257 amortization equalization disbursement	\$1,890
9 S.B. 06-235 supplemental amortization	
10 equalization disbursement	\$1,890
11 Operating expenses	\$5,135
12 General professional services and special projects	\$14,750

13 (2) To implement this act, general fund appropriations made in the
14 annual general appropriation act for the 2018-19 state fiscal year to the
15 department of health care policy and financing, which are each subject to
16 the "(M)" notation as defined in the annual general appropriation act for
17 the same fiscal year, are increased as follows:

18 **Medical services premiums**

19 Medical and long-term care services for	
20 medicaid eligible individuals	\$33,971

21 

22 (3) To implement this act, general fund appropriations made in the
23 annual general appropriation act for the 2018-19 state fiscal year to the
24 department of health care policy and financing, which are each subject to
25 the "(M)" notation as defined in the annual general appropriation act for
26 the same fiscal year, are decreased as follows:

27 **Department of human services medicaid-funded programs,**

1 funds received for the 2018-19 state fiscal year by the department of
2 health care policy and financing will decrease as follows:

3 **Department of human services medicaid-funded programs,**
4 **executive director's office - medicaid funding** \$7,815

5 **Department of human services medicaid-funded programs,**
6 **division of child welfare - medicaid funding**

7 Administration \$42,191

8 Child welfare services \$1,291,629

9 (6) For the 2018-19 state fiscal year, \$1,257,660 is appropriated to
10 the department of health care policy and financing for use by the office
11 of community living. This appropriation is from the general fund and is
12 subject to the "(M)" notation as defined in the annual general
13 appropriation act for the same fiscal year. To implement this act, the
14 office may use this appropriation for the children's habilitation residential
15 program.

16 (7) For the 2018-19 state fiscal year, the general assembly
17 anticipates that the department of health care policy and financing will
18 receive \$1,257,659 in federal funds for the children's habilitation
19 residential program to implement this act. The appropriation in subsection
20 (6) of this section is based on the assumption that the department will
21 receive this amount of federal funds.

22 **SECTION 9. Appropriation - adjustments to 2018 long bill.**

23 (1) To implement this act, the appropriations made in the annual general
24 appropriation act for the 2018-19 state fiscal year to the department of
25 human services from reappropriated medicaid funds received from the
26 department of health care policy and financing and the related FTE are
27 decreased as follows:

1	Executive director's office, general administration	
2	Health, life, and dental	\$7,927
3	Short-term disability	\$144
4	S.B. 04-257 amortization equalization disbursement	\$3,781
5	S.B. 06-235 supplemental amortization	
6	equalization disbursement	\$3,781
7	Operating expenses	\$1,900
8	Division of child welfare	
9	Administration	\$84,383 (1.0 FTE)
10	Child welfare services	\$2,583,260

11 **SECTION 10. Effective date.** This act takes effect July 1, 2018;
12 except that sections 3, 4, 5, 6, and 7 of this act take effect upon notice to
13 the revisor of statutes pursuant to section 25.5-5-306 (6), Colorado
14 Revised Statutes, as enacted in section 2 of this act.

15 **SECTION 11. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.