

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0426.01 Jane Ritter x4342

HOUSE BILL 20-1012

HOUSE SPONSORSHIP

Young and Landgraf,

SENATE SPONSORSHIP

Todd and Gardner,

House Committees

Public Health Care & Human Services

Senate Committees

A BILL FOR AN ACT

101 CONCERNING REFORMS TO CHILD WELFARE SERVICES PROGRAMS FOR
102 CHILDREN WITH INTELLECTUAL AND DEVELOPMENTAL
103 DISABILITIES.

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 makes changes to a program (program) within the department of human services (department) for children and youth with intellectual and developmental disabilities or co-occurring disorders (children and youth). The scope of rules to be promulgated by the department for the program is expanded to include planning for services

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.

for children and youth who become 18 years of age while in the program; access to behavioral health services; wait list management; process for a child or youth who is at risk for out-of-home placement; and program evaluation.

Current law only allows for a county department of human or social services to submit an application to the program for a child or youth. The bill extends this option to the parent or legal guardian of the child or youth, and extends all notification requirements related to the program to the parent or legal guardian as well.

The bill updates reimbursement provisions so that if a child or youth is not in the custody of a county department of human or social services or the department, the department shall directly reimburse the licensed provider where the child or youth is placed.

Beginning on or before September 1, 2020, the department is required to compile and make public an annual report on the program.

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

2 **SECTION 1.** In Colorado Revised Statutes, 26-5-102, **amend** (3)
3 and (4); and **add** (3.5) as follows:

4 **26-5-102. Provision of child welfare services - system reform**
5 **goals - out-of-home placements for children and youth with**
6 **intellectual and developmental disabilities - reporting - rules -**
7 **definitions.** (3) (a) On or before August 1, 2018, the state department
8 shall develop a program to serve children and youth with intellectual and
9 developmental disabilities OR CO-OCCURRING DISORDERS, AS DEFINED IN
10 SUBSECTION (4) OF THIS SECTION, who are placed by county departments
11 of human or social services ~~in a licensed out-of-home setting as defined~~
12 ~~in section 26-6-102 (33)~~ OR WHO ARE AT RISK OF OUT-OF-HOME
13 PLACEMENT, AS DEFINED IN SUBSECTION (4) OF THIS SECTION, and children
14 or youth committed to or in the custody of the state department.

15 (b) The state department shall promulgate rules concerning the
16 placement of children or youth in the program. The rules must include,
17 but need not be limited to, quality assurance monitoring; admissions;

1 discharge planning, INCLUDING PLANNING FOR SERVICES FOR CHILDREN
2 AND YOUTH WHO REACH EIGHTEEN YEARS OF AGE WHILE IN THE PROGRAM;
3 appropriate length of stay; ACCESS TO BEHAVIORAL HEALTH SERVICES; A
4 PROCESS FOR SELECTION CRITERIA AND WAIT LIST MANAGEMENT;
5 PROGRAM EVALUATION; and an appeals process for children or youth who
6 are determined to be ineligible for the program.

7 (c) On or before December 31, 2018, the state department shall
8 contract with a licensed provider for the delivery of services to children
9 and youth with intellectual and developmental disabilities who are placed
10 in the program. The state department shall utilize a request for proposal
11 process to define the scope of the contract and to select the licensed
12 provider.

13 (d) A county department ~~that wishes~~ OR THE PARENT OR LEGAL
14 GUARDIAN OF A CHILD OR YOUTH THAT SEEKS to place a child or youth in
15 the program shall submit an application to the state department for
16 review. The state department shall approve admissions into the program
17 and determine discharge criteria for each placement. A county department
18 OR PARENT OR LEGAL GUARDIAN OF A CHILD OR YOUTH that has applied
19 for the admission of a child or youth into the program ~~shall~~ MUST be
20 notified in writing of a placement approved by the state department.

21 (e) For the duration of the treatment, as defined in the approval
22 letter from the state department, and for thirty days after the completion
23 of treatment, the county department responsible for the placement of the
24 child or youth in the program must be reimbursed by the state department
25 for one hundred percent of the costs associated with the approved
26 placement. IF THE CHILD OR YOUTH WAS NOT PLACED BY A COUNTY
27 DEPARTMENT OR THE CHILD OR YOUTH IS NOT IN THE CUSTODY OF THE

1 COUNTY DEPARTMENT OR THE STATE DEPARTMENT, THE STATE
2 DEPARTMENT SHALL DIRECTLY REIMBURSE THE LICENSED PROVIDER FOR
3 THE PLACEMENT.

4 (f) The state department shall notify the county department OR
5 PARENT OR LEGAL GUARDIAN OF A CHILD OR YOUTH that is responsible for
6 the placement of the child or youth of the date on which the
7 reimbursement eligibility will expire. Upon expiration of the
8 reimbursement eligibility, if the child or youth remains in placement at
9 the facility, the county department OR PARENT OR LEGAL GUARDIAN OF
10 THE CHILD OR YOUTH THAT IS RESPONSIBLE FOR THE PLACEMENT OF THE
11 CHILD OR YOUTH is responsible for one hundred percent of the placement
12 costs.

13 (g) A county department OR A PARENT OR LEGAL GUARDIAN OF A
14 CHILD OR YOUTH that has placed a child or youth in the program retains
15 the right to remove the child or youth from the program any time prior to
16 the discharge date specified by the state department.

17 (h) The state department shall reimburse the provider one hundred
18 percent of the cost of unutilized beds in the program to ensure available
19 space for emergency residential out-of-home placements.

20 (i) (I) Entities other than county departments, including but not
21 limited to hospitals, health care providers, single entry point agencies, and
22 community-centered boards, may refer a family to voluntarily apply and
23 assist with the application to the state department for admission of the
24 family's child or youth with intellectual and developmental disabilities OR
25 CO-OCCURRING DISORDERS into the program pursuant to this subsection
26 (3). ~~Such applications will be considered if space is available. However,~~
27 ~~children and youth with intellectual and developmental disabilities placed~~

1 ~~by county departments or the state department shall have priority for~~
2 ~~admission to the program;~~ IF DEEMED ELIGIBLE FOR THE PROGRAM BUT
3 SPACE IS UNAVAILABLE, THE CHILD OR YOUTH WILL BE LISTED ON THE
4 WAIT LIST.

5 (II) The state department shall not accept applications for
6 placement of a child or youth who is exclusively insured by private
7 insurance. A child or youth who is NOT IN THE CUSTODY OF A COUNTY
8 DEPARTMENT AND IS dually insured by private insurance and medicaid
9 and whose residential level of care has been denied by private insurance
10 may be eligible for services in the program; EXCEPT THAT ATTEMPTS
11 MUST FIRST BE MADE TO QUALIFY THE CHILD OR YOUTH FOR OTHER
12 LICENSED OUT-OF-HOME TREATMENT SERVICES THROUGH MEDICAID.

13 (III) THE STATE DEPARTMENT SHALL PROMULGATE RULES TO
14 ESTABLISH CRITERIA FOR ADMISSION TO THE PROGRAM. THE CRITERIA MAY
15 INCLUDE, BUT NEED NOT BE LIMITED TO, RISK OR ACUITY OF THE YOUTH.
16 IN ESTABLISHING THE CRITERIA, THE STATE DEPARTMENT SHALL CONVENE
17 A STAKEHOLDER PROCESS TO INCLUDE INPUT FROM COUNTIES, ADVOCACY
18 ORGANIZATIONS, COMMUNITY-CENTERED BOARDS, HOSPITALS, AND OTHER
19 INTERESTED COMMUNITY MEMBERS.

20 (IV) THE STATE DEPARTMENT SHALL PROMULGATE RULES TO
21 ESTABLISH THE APPLICATION PROCESS FOR A CHILD OR YOUTH WHO IS AT
22 RISK OF OUT-OF-HOME PLACEMENT BUT WHO IS NOT IN THE CUSTODY OF
23 A COUNTY DEPARTMENT.

24 (j) ~~Any entity defined in subsection (3)(i) of this section that~~
25 ~~receives placement approval from the state department shall contract~~
26 ~~directly with the provider for such placement and is responsible for the~~
27 ~~costs associated with the placement~~ THE STATE DEPARTMENT SHALL

1 DIRECTLY REIMBURSE THE LICENSED FACILITY FOR ALL PLACEMENTS MADE
2 PURSUANT TO THE PROGRAM.

3 (j.5) FOR A CHILD OR YOUTH WHO IS NOT IN THE CUSTODY OF A
4 COUNTY DEPARTMENT, THE STATE DEPARTMENT IS NOT EXPECTED TO
5 PROVIDE INDIVIDUALIZED CASE MANAGEMENT SERVICES FOR SUCH CHILD
6 OR YOUTH WHO IS SEEKING TO GAIN ELIGIBILITY TO THE PROGRAM. FOR A
7 CHILD OR YOUTH WHO IS IN THE CUSTODY OF A COUNTY DEPARTMENT,
8 APPROPRIATE CASE MANAGEMENT SERVICES, REFERRALS, AND SUPPORT
9 MUST CONTINUE IN PARTNERSHIP WITH THE STATE DEPARTMENT.

10 (k) The state department ~~may~~ SHALL maintain up to three open
11 beds specifically for children and youth in the custody of a county or
12 committed to or in the custody of the state department who may need
13 services on an emergency basis.

14 (3.5) ON OR BEFORE SEPTEMBER 1, 2020, AND ON OR BEFORE EACH
15 SEPTEMBER 1 THEREAFTER, THE STATE DEPARTMENT SHALL POST A
16 PUBLICLY AVAILABLE REPORT ON ITS WEBSITE CONCERNING THE PROGRAM
17 ESTABLISHED PURSUANT TO THIS SECTION FOR CHILDREN AND YOUTH WITH
18 INTELLECTUAL AND DEVELOPMENTAL DISABILITIES OR CO-OCCURRING
19 DISORDERS. THE STATE DEPARTMENT SHALL MAKE EVERY EFFORT TO
20 PROVIDE AVAILABLE BASELINE DATA FROM THE PROGRAM'S INITIAL YEAR
21 OF SERVICE FOR THE PURPOSE OF THE REPORTS REQUIRED BY THIS
22 SUBSECTION (3.5). NOTWITHSTANDING THE PROVISIONS OF SECTION
23 24-1-136 (11)(a)(I), THE REPORTING REQUIREMENTS OF THIS SUBSECTION
24 (3.5) CONTINUE INDEFINITELY. THE REPORT MUST INCLUDE, AT A
25 MINIMUM:

26 (a) NONIDENTIFYING DEMOGRAPHIC INFORMATION ABOUT THE
27 CHILDREN AND YOUTH ACCESSING THE PROGRAM, INCLUDING AGE,

1 COUNTY OF RESIDENCE, THE NUMBER OF CHILDREN WHO HAVE APPLIED
2 AND BEEN DENIED, THE COMMON REASONS FOR DENIALS, AND AVERAGE
3 LENGTH OF TIME SPENT IN THE PROGRAM;

4 (b) THE AVERAGE LENGTH OF WAIT TIME FOR CHILDREN AND
5 YOUTH ON THE WAIT LIST;

6 (c) THE MOST COMMON REASONS FOR DISCHARGE;

7 (d) AGGREGATED INFORMATION ABOUT THE CHILD'S OR YOUTH'S
8 EXPECTED PLACEMENT FOLLOWING DISCHARGE;

9 (e) THE TOTAL NUMBER OF REFERRALS TO THE PROGRAM,
10 INCLUDING THOSE WHO DO NOT CHOOSE TO BE LISTED ON THE WAIT LIST;

11 AND

12 (f) THE MOST FREQUENTLY REFERRING ENTITIES.

13 (4) As used in this section, UNLESS THE CONTEXT OTHERWISE
14 REQUIRES:

15 (a) "AT RISK OF OUT-OF-HOME PLACEMENT" MEANS A CHILD OR
16 YOUTH WHO:

17 (I) (A) IS ENTERING THE DIVISION OF YOUTH SERVICES; OR

18 (B) IS AT RISK OF CHILD WELFARE INVOLVEMENT;

19 (II) IS ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO ARTICLE
20 4, 5, OR 6 OF THIS TITLE 25.5; AND

21 (III) (A) HAS AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY
22 AS DEFINED IN SECTION 25.5-6-403;

23 (B) HAS BEEN DIAGNOSED AS HAVING A MENTAL HEALTH
24 DISORDER, DEFINED AS ONE OR MORE SUBSTANTIAL DISORDERS OF THE
25 COGNITIVE, VOLITIONAL, OR EMOTIONAL PROCESSES THAT GROSSLY
26 IMPAIR JUDGMENT OR CAPACITY TO RECOGNIZE REALITY OR TO CONTROL
27 BEHAVIOR; AND

1 (C) MAY REQUIRE A LEVEL OF CARE THAT IS PROVIDED IN A
2 RESIDENTIAL CHILD CARE FACILITY, INPATIENT PSYCHIATRIC HOSPITAL, OR
3 OTHER INTENSIVE CARE SETTING OUTSIDE OF THE CHILD'S OR YOUTH'S
4 HOME.

5 (b) "CO-OCCURRING DISORDER" MEANS AN INTELLECTUAL AND
6 DEVELOPMENTAL DISABILITY, AS DEFINED IN SECTION 25.5-6-403, AND A
7 MENTAL HEALTH DISORDER, DEFINED AS ONE OR MORE SUBSTANTIAL
8 DISORDERS OF THE COGNITIVE, VOLITIONAL, OR EMOTIONAL PROCESSES
9 THAT GROSSLY IMPAIRS JUDGMENT OR CAPACITY TO RECOGNIZE REALITY
10 OR TO CONTROL BEHAVIOR.

11 (c) "County department" means a county department of human or
12 social services.

13 (d) "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" HAS THE
14 SAME MEANING AS SET FORTH IN SECTION 25.5-6-403.

15 **SECTION 2. Act subject to petition - effective date.** This act
16 takes effect at 12:01 a.m. on the day following the expiration of the
17 ninety-day period after final adjournment of the general assembly (August
18 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
19 referendum petition is filed pursuant to section 1 (3) of article V of the
20 state constitution against this act or an item, section, or part of this act
21 within such period, then the act, item, section, or part will not take effect
22 unless approved by the people at the general election to be held in
23 November 2020 and, in such case, will take effect on the date of the
24 official declaration of the vote thereon by the governor.