

First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 23-0926.01 Shelby Ross x4510

HOUSE BILL 23-1269

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HOUSE SPONSORSHIP

Michaelson Jenet and Pugliese,

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Public & Behavioral Health & Human Services

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A BILL FOR AN ACT

101 CONCERNING EFFORTS TO PROMOTE CLINICAL STABILIZATION FOR  
102 YOUTH INVOLVED IN THE BEHAVIORAL HEALTH SYSTEM.

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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 requires the department of health care policy and financing to analyze how directed payment authority can be used as part of a comprehensive plan to facilitate an adequate network of services for children and youth by requiring each managed care entity to pay no less than state department-established fee schedule rates for services needed to promote clinical stabilization.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

No later than July 1, 2023, the bill requires the department of human services (CDHS) to form a working group to make recommendations about developing an incentive funding pool pilot program to incentivize residential treatment providers to accept and treat children and youth who have high-acuity behavioral health needs to appropriate treatment and placement.

The bill requires the behavioral health administration (BHA) to develop a framework to measure and assess how the behavioral health system for children and youth is functioning, which framework must include measures of accountability for children and youth who are boarding or in extended stay.

Beginning September 1, 2023, and each quarter thereafter until October 1, 2024, the bill requires each hospital to report de-identified information to the BHA on the total number of children and youth patients who were boarding or had extended stay in the previous quarter; if known, how many children and youth who were boarding or had extended stay and were in county custody at the time; and, for patients who were discharged during the quarter, where the patients were discharged to.

Beginning September 1, 2023, and each quarter thereafter until October 1, 2024, the bill requires CDHS to report de-identified information to the BHA on the total number of children and youth in the custody of, or who had involvement with, a county department of human or social services who spent time at least overnight in a hotel or a county department office as a stopgap setting or remained in detention when the child or youth could have been released but no placement was available.

No later than September 1, 2023, and each quarter thereafter until October 1, 2024, the bill requires the BHA to report aggregated and de-identified information submitted to the BHA to the BHA advisory council and to the child and youth mental health service standards advisory board.

The bill requires CDHS to develop a plan for whenever a residential treatment facility for children and youth closes or has a substantial change in operation to support children and youth treatment capacity elsewhere in a manner that most appropriately serves the behavioral health needs of the child or youth.

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

2           **SECTION 1.** In Colorado Revised Statutes, **add** 25.5-4-427 as  
3 follows:

4           **25.5-4-427. Increasing access to behavioral health care for**

1 **children and youth - directed payment authority - fee schedule rates.**

2 (1) (a) THE STATE DEPARTMENT SHALL ANALYZE HOW DIRECTED  
3 PAYMENT AUTHORITY CAN BE USED AS PART OF A COMPREHENSIVE PLAN  
4 TO FACILITATE AN ADEQUATE NETWORK OF SERVICES FOR CHILDREN AND  
5 YOUTH WITH BEHAVIORAL HEALTH NEEDS WHO ARE UNDER TWENTY-ONE  
6 YEARS OF AGE AND RECEIVE MEDICAID BENEFITS BY REQUIRING EACH  
7 MANAGED CARE ENTITY TO PAY NO LESS THAN STATE  
8 DEPARTMENT-ESTABLISHED FEE SCHEDULE RATES TO INCREASE ACCESS TO  
9 CARE FOR SERVICES NEEDED TO PROMOTE CLINICAL STABILIZATION. THE  
10 STATE DEPARTMENT SHALL ANALYZE HOW DIRECTED PAYMENT  
11 AUTHORITY MAY BE APPLIED TO CLINICAL STABILIZATION SERVICES,  
12 INCLUDING, BUT NOT LIMITED TO, RESIDENTIAL TREATMENT SERVICES,  
13 MULTISYSTEMIC THERAPY, FUNCTIONAL FAMILY THERAPY, AND  
14 PSYCHOTHERAPY SERVICES FOR CHILDREN AND YOUTH.

15 (b) IN ANALYZING DIRECTED PAYMENT AUTHORITY AND  
16 ESTABLISHING FEE SCHEDULE RATES, THE STATE DEPARTMENT SHALL  
17 CONSIDER WHETHER THE RATES SHOULD INCREASE BASED ON THE ACUITY  
18 OF THE CHILD OR YOUTH.

19 (2) NO LATER THAN OCTOBER 1, 2023, THE STATE DEPARTMENT  
20 SHALL REPORT TO THE HOUSE OF REPRESENTATIVES PUBLIC AND  
21 BEHAVIORAL HEALTH AND HUMAN SERVICES COMMITTEE AND THE SENATE  
22 HEALTH AND HUMAN SERVICES COMMITTEE, OR THEIR SUCCESSOR  
23 COMMITTEES, AND THE JOINT BUDGET COMMITTEE WHETHER DIRECTED  
24 PAYMENT AUTHORITY SHOULD BE PURSUED AND WHETHER FUNDING  
25 SHOULD BE REQUESTED TO EXPAND ACCESS TO RESIDENTIAL TREATMENT  
26 SERVICES, MULTISYSTEMIC THERAPY, FUNCTIONAL FAMILY THERAPY, AND  
27 PSYCHOTHERAPY SERVICES. IF THE STATE DEPARTMENT DETERMINES THAT

1 DIRECTED PAYMENTS ARE NOT APPROPRIATE TO EXPAND ACCESS TO SUCH  
2 SERVICES, THE STATE DEPARTMENT SHALL PRESENT AN ALTERNATIVE  
3 PLAN TO EXPANDING ACCESS TO THE SERVICES.

4 **SECTION 2.** In Colorado Revised Statutes, 26-5-117, **add**  
5 (2)(a.5) as follows:

6 **26-5-117. Out-of-home placement for children and youth with**  
7 **mental or behavioral needs - funding - report - rules - legislative**  
8 **declaration - definitions - repeal.** (2) (a.5) (I) NO LATER THAN JULY 1,  
9 2023, THE STATE DEPARTMENT, IN COLLABORATION WITH THE  
10 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND OTHER  
11 RELEVANT STAKEHOLDERS, SHALL FORM A WORKING GROUP TO MAKE  
12 RECOMMENDATIONS ABOUT DEVELOPING AN INCENTIVE FUNDING POOL  
13 PILOT PROGRAM TO INCENTIVIZE RESIDENTIAL TREATMENT PROVIDERS TO  
14 ACCEPT AND TREAT CHILDREN AND YOUTH WHO ARE UNDER TWENTY-ONE  
15 YEARS OF AGE AND HAVE HIGH-ACUITY BEHAVIORAL HEALTH NEEDS OR  
16 OTHER COMMON BARRIERS TO APPROPRIATE TREATMENT AND PLACEMENT.

17 (II) IN DEVELOPING THE INCENTIVE FUNDING POOL, THE STATE  
18 DEPARTMENT MAY CONSIDER PROVIDING AN ENHANCED PAYMENT, IN  
19 ADDITION TO ANY DAILY BED RATE AUTHORIZED AND PAID FOR BY PUBLIC  
20 FUNDING, AND AUTHORIZING THE FUNDING POOL TO BE USED TO EXTEND  
21 AND EXPAND ACCESS TO CARE PURSUANT TO SUBSECTION (2)(b)(I) OF THIS  
22 SECTION.

23 (III) NO LATER THAN OCTOBER 1, 2023, THE WORKING GROUP  
24 SHALL SUBMIT ITS RECOMMENDATIONS TO THE JOINT BUDGET COMMITTEE.

25 **SECTION 3.** In Colorado Revised Statutes, 27-50-101, **add** (8.5)  
26 and (13.5) as follows:

27 **27-50-101. Definitions.** As used in this article 50, unless the

1 context otherwise requires:

2 (8.5) "BOARDING" MEANS WHEN A CHILD OR YOUTH UNDER  
3 TWENTY-ONE YEARS OF AGE HAS BEEN WAITING LONGER THAN TWELVE  
4 HOURS TO BE PLACED IN AN APPROPRIATE TREATMENT SETTING AFTER  
5 BEING CLINICALLY ASSESSED AND DETERMINED TO BE IN NEED OF  
6 INPATIENT PSYCHIATRIC TREATMENT AND RECEIVED A DETERMINATION  
7 FROM A LICENSED PROVIDER OF MEDICAL STABILITY WITHOUT THE NEED  
8 FOR URGENT MEDICAL ASSESSMENT OR HOSPITALIZATION FOR A PHYSICAL  
9 CONDITION.

10 (13.5) "EXTENDED STAY" MEANS WHEN A CHILD OR YOUTH UNDER  
11 TWENTY-ONE YEARS OF AGE HAS BEEN WAITING LONGER THAN  
12 SEVENTY-TWO HOURS TO BE DISCHARGED FROM AN ACUTE LEVEL OF  
13 INPATIENT PSYCHIATRIC CARE TO A LESS INTENSIVE OR LESS RESTRICTIVE  
14 CLINICALLY APPROPRIATE LEVEL OF PSYCHIATRIC CARE, INCLUDING A  
15 DISCHARGE HOME OR TO A HOME-LIKE SETTING WITH BEHAVIORAL HEALTH  
16 SUPPORTS.

17 **SECTION 4.** In Colorado Revised Statutes, 27-50-201, **add** (3.5)  
18 and (3.7) as follows:

19 **27-50-201. Behavioral health system monitoring - capacity -**  
20 **safety net performance.** (3.5) (a) IN SETTING MINIMUM PERFORMANCE  
21 STANDARDS FOR CHILDREN AND YOUTH UNDER TWENTY-ONE YEARS OF  
22 AGE, THE BHA SHALL, WITHIN EXISTING RESOURCES, COLLABORATE WITH  
23 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, THE  
24 DEPARTMENT OF HUMAN SERVICES, COUNTY DEPARTMENTS OF HUMAN OR  
25 SOCIAL SERVICES, MANAGED CARE ENTITIES, HOSPITALS, AND OTHER  
26 RELEVANT STAKEHOLDERS TO DEVELOP A FRAMEWORK TO MEASURE AND  
27 ASSESS HOW THE BEHAVIORAL HEALTH SYSTEM FOR CHILDREN AND YOUTH

1 IS FUNCTIONING, INCLUDING MEDICAID SERVICES AND SUPPORTS FOR  
2 CHILDREN AND YOUTH. THE FRAMEWORK MUST INCLUDE MEASURES OF  
3 ACCOUNTABILITY FOR CHILDREN AND YOUTH WHO ARE BOARDING OR IN  
4 EXTENDED STAY. IN DEVELOPING THE FRAMEWORK, THE BHA AND  
5 RELEVANT STAKEHOLDERS SHALL:

6 (I) EXAMINE THE TYPES OF DATA ALREADY COLLECTED BY THE  
7 STATE AND HOW TO MAKE THE DATA USABLE BY THE PUBLIC,  
8 HEALTH-CARE PROVIDERS, LOCAL GOVERNMENTS, AND STATE AGENCIES  
9 TO EXPAND CAPACITY ALONG THE CARE CONTINUUM AND ENSURE  
10 ACCOUNTABILITY OF OUTCOMES FOR CHILDREN AND YOUTH;

11 (II) ANALYZE THE DE-IDENTIFIED SUMMARY OF CHILDREN AND  
12 YOUTHS' NEEDS AND STRENGTHS DATA AND DETERMINE HOW THE DATA  
13 CAN BE USED TO FURTHER INFORM COMMUNITY-BASED PREVENTION  
14 EFFORTS AND CLOSE GAPS ALONG THE CARE CONTINUUM; AND

15 (III) EXAMINE WHETHER THE MENTAL HEALTH BED TRACKER DATA  
16 AND DASHBOARD COULD INTEGRATE AND COORDINATE WITH THE  
17 COLLECTED DATA.

18 (b) THE BHA MAY, WITHIN EXISTING APPROPRIATIONS OR  
19 THROUGH GIFTS, GRANTS, OR DONATIONS, ENTER INTO AN AGREEMENT  
20 WITH A COLORADO-BASED THIRD-PARTY EVALUATOR THAT HAS EXPERTISE  
21 IN CHILD WELFARE AND YOUTH MENTAL HEALTH RESEARCH, INCLUDING  
22 OUTCOME MEASUREMENT AND IMPACT ANALYSIS, TO ASSIST IN  
23 DEVELOPING THE FRAMEWORK.

24 (c) NO LATER THAN FEBRUARY 1, 2024, THE BHA SHALL SUBMIT  
25 THE FRAMEWORK TO THE HOUSE OF REPRESENTATIVES PUBLIC AND  
26 BEHAVIORAL HEALTH AND HUMAN SERVICES COMMITTEE AND THE SENATE  
27 HEALTH AND HUMAN SERVICES COMMITTEE, OR THEIR SUCCESSOR

1 COMMITTEES. THE BHA SHALL MAKE THE FRAMEWORK PUBLICLY  
2 AVAILABLE ON THE BHA'S WEBSITE.

3 (3.7) (a) (I) BEGINNING SEPTEMBER 1, 2023, AND EACH QUARTER  
4 THEREAFTER UNTIL OCTOBER 1, 2024, EACH HOSPITAL SHALL REPORT  
5 DE-IDENTIFIED INFORMATION TO THE BHA IN A FORM AND MANNER  
6 SPECIFIED BY THE BHA ON THE TOTAL NUMBER OF CHILDREN AND YOUTH  
7 PATIENTS WHO WERE BOARDING OR HAD EXTENDED STAYS IN THE  
8 PREVIOUS QUARTER; IF KNOWN, HOW MANY CHILDREN AND YOUTH WHO  
9 WERE BOARDING OR HAD EXTENDED STAYS AND WERE IN COUNTY  
10 CUSTODY AT THE TIME THEY WERE BOARDING OR HAD EXTENDED STAYS;  
11 AND, TO THE EXTENT POSSIBLE, FOR PATIENTS WHO WERE ULTIMATELY  
12 DISCHARGED DURING THE QUARTER, WHERE THE PATIENTS WERE  
13 DISCHARGED TO.

14 (II) BEGINNING SEPTEMBER 1, 2023, AND EACH QUARTER  
15 THEREAFTER UNTIL OCTOBER 1, 2024, THE DEPARTMENT OF HUMAN  
16 SERVICES, IN CONSULTATION WITH COUNTY DEPARTMENTS OF HUMAN OR  
17 SOCIAL SERVICES, SHALL REPORT DE-IDENTIFIED INFORMATION TO THE  
18 BHA IN A FORM AND MANNER SPECIFIED BY THE BHA ON THE TOTAL  
19 NUMBER OF CHILDREN AND YOUTH IN THE CUSTODY OF, OR WHO HAD  
20 INVOLVEMENT WITH, A COUNTY DEPARTMENT OF HUMAN OR SOCIAL  
21 SERVICES WHO SPENT TIME AT LEAST OVERNIGHT IN A HOTEL OR A COUNTY  
22 DEPARTMENT OF HUMAN OR SOCIAL SERVICES OFFICE AS A STOPGAP  
23 SETTING OR REMAINED IN DETENTION WHEN THE CHILD OR YOUTH COULD  
24 HAVE BEEN RELEASED BUT NO PLACEMENT WAS AVAILABLE.

25 (b) (I) NO LATER THAN SEPTEMBER 1, 2023, AND EACH QUARTER  
26 THEREAFTER UNTIL OCTOBER 1, 2024, THE BHA SHALL REPORT  
27 AGGREGATED AND DE-IDENTIFIED INFORMATION SUBMITTED TO THE BHA

1 PURSUANT TO SUBSECTION (3.7)(a) OF THIS SECTION TO THE BEHAVIORAL  
2 HEALTH ADMINISTRATION ADVISORY COUNCIL CREATED PURSUANT TO  
3 SECTION 27-50-701 AND THE CHILD AND YOUTH MENTAL HEALTH SERVICE  
4 STANDARDS ADVISORY BOARD CREATED PURSUANT TO SECTION  
5 27-67-109. THE ADVISORY COUNCIL AND ADVISORY BOARD MAY REQUEST  
6 ADDITIONAL REPORTING, IF APPROPRIATE. THE ADVISORY COUNCIL AND  
7 ADVISORY BOARD SHALL MAKE THE DE-IDENTIFIED AND AGGREGATED  
8 DATA PUBLICLY AVAILABLE ON THEIR RESPECTIVE WEBSITES.

9 (II) IF THE INFORMATION REPORTED PURSUANT TO THIS  
10 SUBSECTION (3.7)(b) IS NOT ABLE TO BE AGGREGATED AND DE-IDENTIFIED  
11 IN COMPLIANCE WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY  
12 AND ACCOUNTABILITY ACT OF 1996", AS AMENDED, 42 U.S.C. SECS.  
13 1320d TO 1320d-9, THE BHA SHALL NOT REPORT THE INFORMATION UNTIL  
14 THE POPULATION IS LARGE ENOUGH TO BE REPORTED IN COMPLIANCE WITH  
15 THE FEDERAL LAW.

16 **SECTION 5.** In Colorado Revised Statutes, 26-1-132, **add** (5) as  
17 follows:

18 **26-1-132. Department of human services - rate setting -**  
19 **residential treatment service providers - monitoring and auditing -**  
20 **report.** (5) THE STATE DEPARTMENT, IN COLLABORATION WITH THE  
21 BEHAVIORAL HEALTH ADMINISTRATION AND THE DEPARTMENT OF HEALTH  
22 CARE POLICY AND FINANCING, SHALL DEVELOP A PLAN FOR WHENEVER A  
23 RESIDENTIAL TREATMENT FACILITY FOR CHILDREN AND YOUTH THAT IS  
24 LICENSED BY THE STATE DEPARTMENT CLOSES OR HAS A SUBSTANTIVE  
25 CHANGE IN OPERATION TO SUPPORT CHILDREN AND YOUTH TREATMENT  
26 CAPACITY ELSEWHERE IN A MANNER THAT MOST APPROPRIATELY SERVES  
27 THE BEHAVIORAL HEALTH NEEDS OF THE CHILD OR YOUTH. THE STATE

1 DEPARTMENT SHALL INCLUDE UPDATES ON THE CAPACITY PLAN DURING  
2 THE STATE DEPARTMENT'S "SMART ACT" HEARING.

3           **SECTION 6. Act subject to petition - effective date.** This act  
4 takes effect at 12:01 a.m. on the day following the expiration of the  
5 ninety-day period after final adjournment of the general assembly; except  
6 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
7 of the state constitution against this act or an item, section, or part of this  
8 act within such period, then the act, item, section, or part will not take  
9 effect unless approved by the people at the general election to be held in  
10 November 2024 and, in such case, will take effect on the date of the  
11 official declaration of the vote thereon by the governor.