

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 23-0926.01 Shelby Ross x4510

HOUSE BILL 23-1269

HOUSE SPONSORSHIP

Michaelson Jenet,

SENATE SPONSORSHIP

Bridges and Gardner,

House Committees

Public & Behavioral Health & Human Services
Appropriations

Senate Committees

A BILL FOR AN ACT

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

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.

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, 26-5-104, **add (7.5)**
5 **as follows:**

6 **26-5-104. Funding of child welfare services provider contracts**
7 **- funding mechanism review - fund - report - rules - definitions -**
8 **repeal. (7.5) High-acuity treatment and services cash fund.**

9 (a) THERE IS CREATED IN THE STATE TREASURY THE HIGH-ACUITY
10 TREATMENT AND SERVICES CASH FUND, REFERRED TO IN THIS SUBSECTION
11 (7.5) AS THE "HIGH-ACUITY CASH FUND".

12 (b) FOR STATE FISCAL YEAR 2023-24 AND 2024-25, THE STATE
13 DEPARTMENT SHALL RETAIN ANY UNSPENT MONEY APPROPRIATED IN
14 FISCAL YEAR 2023-24 AND 2024-25 FROM THE GENERAL FUND TO
15 COUNTIES DURING THE INITIAL ALLOCATIONS FOR THE ADMINISTRATION OF
16 CHILD WELFARE SERVICES, CORE SERVICES, OR CHILD WELFARE STAFFING.
17 UNSPENT GENERAL FUND MONEY INCLUDES MONEY REMAINING AFTER
18 TRANSFERS TO THE PREVENTION AND INTERVENTION SERVICES CASH FUND
19 CREATED IN SUBSECTION (7)(a)(I) OF THIS SECTION.

20 (c) ON JUNE 30, 2023 AND JUNE 30, 2024, THE STATE TREASURER
21 SHALL TRANSFER ANY MONEY RETAINED PURSUANT TO SUBSECTION
22 (7.5)(b) OF THIS SECTION TO THE HIGH-ACUITY CASH FUND. THE MONEY
23 TRANSFERRED PURSUANT TO THIS SUBSECTION (7.5)(c) IS AVAILABLE FOR
24 EXPENDITURE THROUGH JUNE 30, 2025.

25 (d) (I) THE STATE DEPARTMENT SHALL EXPEND MONEY FROM THE
26 HIGH-ACUITY CASH FUND TO PROVIDE ADDITIONAL RESOURCES TO
27 LICENSED PROVIDERS TO HELP REMOVE BARRIERS THAT PROVIDERS FACE

1 IN SERVING CHILDREN AND YOUTH WHOSE BEHAVIORAL OR MENTAL
2 HEALTH NEEDS REQUIRE SERVICES AND TREATMENT THAT EXCEED
3 CAPACITY OF THE ESTABLISHED DAILY RATES, INCLUDING FOR THE SAME
4 PURPOSES IDENTIFIED IN SECTION 26-5-117 (2).

5 (II) ANY LICENSED PROVIDER WHO RECEIVES MONEY PURSUANT TO
6 SUBSECTION (7)(d)(I) SHALL MEET THE REQUIREMENTS OF A QUALIFIED
7 RESIDENTIAL TREATMENT PROGRAM, AS DEFINED IN SECTION 26-5.4-102,
8 A PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY, AS DEFINED IN
9 SECTION 25.5-4-103 (19.5), OR THERAPEUTIC FOSTER CARE, AS DEFINED IN
10 SECTION 26-6-903 (35).

11 (e) THIS SUBSECTION (7.5) IS REPEALED, EFFECTIVE JULY 1, 2025.
12 ANY MONEY REMAINING IN THE HIGH-ACUITY CASH FUND AT THE END OF
13 THE 2024-25 FISCAL YEAR REVERTS TO THE GENERAL FUND.

14 **SECTION 3.** In Colorado Revised Statutes, 26-5-117, **add**
15 (2)(a.5) as follows:

16 **26-5-117. Out-of-home placement for children and youth with**
17 **mental or behavioral needs - funding - report - rules - legislative**
18 **declaration - definitions - repeal.** (2) (a.5) (I) NO LATER THAN JULY 1,
19 2023, THE STATE DEPARTMENT, IN COLLABORATION WITH THE
20 DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND OTHER
21 RELEVANT STAKEHOLDERS, INCLUDING STAKEHOLDERS THAT REPRESENT
22 INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES,
23 SHALL FORM A WORKING GROUP TO MAKE RECOMMENDATIONS ABOUT
24 DEVELOPING AN INCENTIVE FUNDING POOL PILOT PROGRAM TO
25 INCENTIVIZE RESIDENTIAL TREATMENT PROVIDERS TO ACCEPT AND TREAT
26 CHILDREN AND YOUTH WHO ARE UNDER TWENTY-ONE YEARS OF AGE AND
27 HAVE HIGH-ACUITY BEHAVIORAL HEALTH NEEDS OR OTHER COMMON

1 BARRIERS TO APPROPRIATE TREATMENT AND PLACEMENT, INCLUDING THE
2 PRESENCE OF CO-OCCURRING DISABILITIES.

3 (II) IN DEVELOPING THE INCENTIVE FUNDING POOL, THE STATE
4 DEPARTMENT MAY CONSIDER PROVIDING AN ENHANCED PAYMENT, IN
5 ADDITION TO ANY DAILY BED RATE AUTHORIZED AND PAID FOR BY PUBLIC
6 FUNDING, AND AUTHORIZING THE FUNDING POOL TO BE USED TO EXTEND
7 AN EXPAND ACCESS TO CARE PURSUANT TO SUBSECTION (2)(b)(I) OF THIS
8 SECTION.

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

11 **SECTION 4.** In Colorado Revised Statutes, 27-50-101, **add** (8.5)
12 and (13.5) as follows:

13 **27-50-101. Definitions.** As used in this article 50, unless the
14 context otherwise requires:

15 (8.5) "BOARDING" MEANS WHEN A CHILD OR YOUTH UNDER
16 TWENTY-ONE YEARS OF AGE HAS BEEN WAITING LONGER THAN TWELVE
17 HOURS TO BE PLACED IN AN APPROPRIATE TREATMENT SETTING AFTER
18 BEING CLINICALLY ASSESSED AND DETERMINED TO BE IN NEED OF
19 INPATIENT PSYCHIATRIC TREATMENT AND RECEIVED A DETERMINATION
20 FROM A LICENSED PROVIDER OF MEDICAL STABILITY WITHOUT THE NEED
21 FOR URGENT MEDICAL ASSESSMENT OR HOSPITALIZATION FOR A PHYSICAL
22 CONDITION.

23 (13.5) "EXTENDED STAY" MEANS WHEN A CHILD OR YOUTH UNDER
24 TWENTY-ONE YEARS OF AGE HAS BEEN WAITING LONGER THAN
25 SEVENTY-TWO HOURS TO BE DISCHARGED FROM AN ACUTE LEVEL OF
26 INPATIENT PSYCHIATRIC CARE TO A LESS INTENSIVE OR LESS RESTRICTIVE
27 CLINICALLY APPROPRIATE LEVEL OF PSYCHIATRIC CARE, INCLUDING A

1 DISCHARGE HOME OR TO A HOME-LIKE SETTING WITH BEHAVIORAL HEALTH
2 SUPPORTS.

3 **SECTION 5.** In Colorado Revised Statutes, 27-50-201, **add** (3.5)
4 and (3.7) as follows:

5 **27-50-201. Behavioral health system monitoring - capacity -**
6 **safety net performance.** (3.5) (a) IN SETTING MINIMUM PERFORMANCE
7 STANDARDS FOR CHILDREN AND YOUTH UNDER TWENTY-ONE YEARS OF
8 AGE, THE BHA SHALL, WITHIN EXISTING RESOURCES, COLLABORATE WITH
9 THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, THE
10 DEPARTMENT OF HUMAN SERVICES, COUNTY DEPARTMENTS OF HUMAN OR
11 SOCIAL SERVICES, MANAGED CARE ENTITIES, HOSPITALS, AND OTHER
12 RELEVANT STAKEHOLDERS TO DEVELOP A FRAMEWORK TO MEASURE AND
13 ASSESS HOW THE BEHAVIORAL HEALTH SYSTEM FOR CHILDREN AND YOUTH
14 IS FUNCTIONING, INCLUDING MEDICAID SERVICES AND SUPPORTS FOR
15 CHILDREN AND YOUTH. THE FRAMEWORK MUST INCLUDE MEASURES OF
16 ACCOUNTABILITY FOR CHILDREN AND YOUTH WHO ARE BOARDING OR IN
17 EXTENDED STAY. IN DEVELOPING THE FRAMEWORK, THE BHA AND
18 RELEVANT STAKEHOLDERS SHALL:

19 (I) EXAMINE THE TYPES OF DATA ALREADY COLLECTED BY THE
20 STATE AND HOW TO MAKE THE DATA USABLE BY THE PUBLIC,
21 HEALTH-CARE PROVIDERS, LOCAL GOVERNMENTS, AND STATE AGENCIES
22 TO EXPAND CAPACITY ALONG THE CARE CONTINUUM AND ENSURE
23 ACCOUNTABILITY OF OUTCOMES FOR CHILDREN AND YOUTH;

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

1 (III) EXAMINE WHETHER THE MENTAL HEALTH BED TRACKER DATA
2 AND DASHBOARD COULD INTEGRATE AND COORDINATE WITH THE
3 COLLECTED DATA.

4 (b) THE BHA MAY, WITHIN EXISTING APPROPRIATIONS OR
5 THROUGH GIFTS, GRANTS, OR DONATIONS, ENTER INTO AN AGREEMENT
6 WITH A THIRD-PARTY CONTRACTOR THAT HAS EXPERTISE IN CHILD
7 WELFARE AND YOUTH MENTAL HEALTH RESEARCH, INCLUDING OUTCOME
8 MEASUREMENT AND IMPACT ANALYSIS, TO ASSIST IN DEVELOPING THE
9 FRAMEWORK.

10 (c) NO LATER THAN FEBRUARY 1, 2024, THE BHA SHALL SUBMIT
11 THE FRAMEWORK TO THE HOUSE OF REPRESENTATIVES PUBLIC AND
12 BEHAVIORAL HEALTH AND HUMAN SERVICES COMMITTEE AND THE SENATE
13 HEALTH AND HUMAN SERVICES COMMITTEE, OR THEIR SUCCESSOR
14 COMMITTEES. THE BHA SHALL MAKE THE FRAMEWORK PUBLICLY
15 AVAILABLE ON THE BHA'S WEBSITE.

16 (3.7) (a) (I) BEGINNING SEPTEMBER 1, 2023, AND EACH QUARTER
17 THEREAFTER UNTIL OCTOBER 1, 2024, EACH HOSPITAL SHALL REPORT
18 DE-IDENTIFIED INFORMATION TO THE BHA IN A FORM AND MANNER
19 SPECIFIED BY THE BHA ON THE TOTAL NUMBER OF CHILDREN AND YOUTH
20 PATIENTS WHO WERE BOARDING OR HAD EXTENDED STAYS IN THE
21 PREVIOUS QUARTER; IF KNOWN, HOW MANY CHILDREN AND YOUTH WHO
22 WERE BOARDING OR HAD EXTENDED STAYS AND WERE IN COUNTY
23 CUSTODY AT THE TIME THEY WERE BOARDING OR HAD EXTENDED STAYS;
24 AND, TO THE EXTENT POSSIBLE, FOR PATIENTS WHO WERE ULTIMATELY
25 DISCHARGED DURING THE QUARTER, WHERE THE PATIENTS WERE
26 DISCHARGED TO.

27 (II) BEGINNING SEPTEMBER 1, 2023, AND EACH QUARTER

1 THEREAFTER UNTIL OCTOBER 1, 2024, THE DEPARTMENT OF HUMAN
2 SERVICES, IN CONSULTATION WITH COUNTY DEPARTMENTS OF HUMAN OR
3 SOCIAL SERVICES, SHALL REPORT DE-IDENTIFIED INFORMATION TO THE
4 BHA IN A FORM AND MANNER SPECIFIED BY THE BHA ON THE TOTAL
5 NUMBER OF CHILDREN AND YOUTH IN THE CUSTODY OF, OR WHO HAD
6 INVOLVEMENT WITH, A COUNTY DEPARTMENT OF HUMAN OR SOCIAL
7 SERVICES WHO SPENT TIME AT LEAST OVERNIGHT IN A HOTEL OR A COUNTY
8 DEPARTMENT OF HUMAN OR SOCIAL SERVICES OFFICE AS A STOPGAP
9 SETTING.

10 (b) (I) NO LATER THAN SEPTEMBER 1, 2023, AND EACH QUARTER
11 THEREAFTER UNTIL OCTOBER 1, 2024, THE BHA SHALL REPORT
12 AGGREGATED AND DE-IDENTIFIED INFORMATION SUBMITTED TO THE BHA
13 PURSUANT TO SUBSECTION (3.7)(a) OF THIS SECTION TO THE BEHAVIORAL
14 HEALTH ADMINISTRATION ADVISORY COUNCIL CREATED PURSUANT TO
15 SECTION 27-50-701 AND THE CHILD AND YOUTH MENTAL HEALTH SERVICE
16 STANDARDS ADVISORY BOARD CREATED PURSUANT TO SECTION
17 27-67-109. THE BHA SHALL MAKE THE DE-IDENTIFIED AND AGGREGATED
18 DATA PUBLICLY AVAILABLE ON THE BHA'S WEBSITE.

19 (II) IF THE INFORMATION REPORTED PURSUANT TO THIS
20 SUBSECTION (3.7)(b) IS NOT ABLE TO BE AGGREGATED AND DE-IDENTIFIED
21 IN COMPLIANCE WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY
22 AND ACCOUNTABILITY ACT OF 1996", AS AMENDED, 42 U.S.C. SECS.
23 1320d TO 1320d-9, THE BHA SHALL NOT REPORT THE INFORMATION UNTIL
24 THE POPULATION IS LARGE ENOUGH TO BE REPORTED IN COMPLIANCE WITH
25 THE FEDERAL LAW.

26 **SECTION 6.** In Colorado Revised Statutes, 26-1-132, **add** (5) as
27 follows:

1 **26-1-132. Department of human services - rate setting -**
2 **residential treatment service providers - monitoring and auditing -**
3 **report.** (5) THE STATE DEPARTMENT, IN COLLABORATION WITH THE
4 BEHAVIORAL HEALTH ADMINISTRATION AND THE DEPARTMENT OF HEALTH
5 CARE POLICY AND FINANCING, SHALL DEVELOP A CAPACITY PLAN FOR
6 WHENEVER A RESIDENTIAL TREATMENT FACILITY FOR CHILDREN AND
7 YOUTH THAT IS LICENSED BY THE STATE DEPARTMENT CLOSES OR HAS A
8 SUBSTANTIVE CHANGE IN OPERATION. THE STATE DEPARTMENT SHALL
9 INCLUDE UPDATES ON THE CAPACITY PLAN DURING THE STATE
10 DEPARTMENT'S "SMART ACT" HEARING.

11 **SECTION 7. Safety clause.** The general assembly hereby finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety.