

## CHAPTER 442

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**CHILDREN AND DOMESTIC MATTERS**

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**HOUSE BILL 23-1307**

BY REPRESENTATIVE(S) Daugherty and Soper, Amabile, Bird, Boesenecker, Kipp, Lindsay, Marshall, Mauro, Michaelson Jenet, Sirota, Snyder, Young, McCluskie;  
also SENATOR(S) Simpson and Rodriguez, Bridges, Buckner, Cutter, Exum, Fields, Gardner, Gonzales, Hansen, Kirkmeyer, Liston, Marchman, Moreno, Mullica, Pelton B., Priola, Smallwood, Will, Zenzinger.

**AN ACT**

**CONCERNING ENHANCED SUPPORTS FOR YOUTH WHO ARE IN DETENTION, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1. Legislative declaration.** (1) The general assembly finds and declares that:

(a) Across the state, there is a need for community-based services and supports spanning the youth services continuum that help to serve youth, including those with high mental health needs, significant substance abuse concerns, or other unmet needs. The state of Colorado must ensure adequate resources to provide community services and supports that could safely keep youth in the home or place youth who are unable to return home in appropriate therapeutic out-of-home placements.

(b) Additional investment in alternatives to incarceration is necessary to develop and expand inpatient beds available to treat youth with substance use disorders; residential treatment programs for youth with mental health needs; community-based mental health services for children and families; and other community-based, culturally relevant, developmentally appropriate services, including mentorship programs for youth;

(c) The general assembly recognized the need for more inpatient treatment beds for adolescents with substance use disorders in section 27-80-127, Colorado Revised Statutes, and required the behavioral health administration to create, develop, or contract for additional substance use treatment beds for youth;

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(d) The general assembly further recognized the need to eliminate barriers to youth moving into the least restrictive placements by establishing the high-risk families cash fund in section 27-80-123, Colorado Revised Statutes, to better serve children and youth at risk of entering, or who are involved in, the juvenile justice system, and by providing funding for a youth neuro-psych facility, psychiatric residential treatment programs, and qualified residential treatment programs in section 27-90-112, Colorado Revised Statutes;

(e) A lack of appropriate out-of-home, non-secure, specialized placements for youth is causing some youth who could otherwise be placed in lieu of detention to be detained in a division of youth services youth detention center for longer than if the placements were available;

(f) The Colorado youth detention continuum (CYDC) advisory board has developed new metrics to determine current needs related to youth detention that can help interested parties understand how many youth are currently held in secure detention until a licensed residential treatment option accepts the youth into their milieu and identify creative solutions that are available to manage the juvenile detention bed cap to best serve Colorado youth; and

(g) Guardians ad litem provide critical services for youth involved with the juvenile justice system, including providing advocacy and representation in court settings for detained youth.

(2) Therefore, the general assembly declares that support is needed for the department of human services to provide incentives to community-based residential providers to serve youth exiting secure detention and to build additional capacity for community-based, culturally relevant, developmentally appropriate services, including prevention, intervention, and mentorship programs, that can be offered to youth being held in secure detention and as they exit into the community.

(3) The general assembly further finds that it is beneficial for the department of human services to track necessary metrics to understand the need for funds for services and placements on an ongoing basis and support the CYDC advisory board in recommending ways to meet this need and manage the current juvenile detention bed cap.

**SECTION 2.** In Colorado Revised Statutes, **add** 19-2.5-1407.3 as follows:

**19-2.5-1407.3. Appropriation to the department of human services - allocation to judicial districts - provider incentives - temporary emergency detention beds - repeal.** (1) FOR STATE FISCAL YEAR 2023-24, AND FOR EACH STATE FISCAL YEAR THEREAFTER, THE GENERAL ASSEMBLY SHALL APPROPRIATE THREE MILLION THREE HUNDRED FORTY THOUSAND ONE HUNDRED NINETEEN DOLLARS FROM THE GENERAL FUND TO THE DEPARTMENT FOR YOUTH WHO ARE DETAINED OR CAN BE PLACED IN LIEU OF DETENTION.

(2) OF THE MONEY APPROPRIATED PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT SHALL ALLOCATE TWO HUNDRED THOUSAND DOLLARS FOR USE BY THE DIVISION OF YOUTH SERVICES TO SUPPORT SERVICES FOR YOUTH

WHO ARE DETAINED OR CAN BE PLACED IN LIEU OF DETENTION. THE DIVISION MAY USE THE MONEY FOR ANY OF THE FOLLOWING:

(a) COMMUNITY-BASED OUTPATIENT THERAPEUTIC SERVICES, INCLUDING MENTAL AND BEHAVIORAL HEALTH SERVICES, FAMILY THERAPY SERVICES, AND SUBSTANCE USE TREATMENT AND THERAPY;

(b) MENTORSHIP SERVICES FOR YOUTH, INCLUDING ENSURING CONTINUITY OF MENTORSHIP SERVICES AFTER A YOUTH IS RELEASED FROM DETENTION; AND

(c) SUPPORTS TO ASSIST WITH MOVING YOUTH WHO REQUIRE OUT-OF-HOME PLACEMENT QUICKLY FROM DETENTION TO THE OUT-OF-HOME PLACEMENT, INCLUDING, BUT NOT LIMITED TO:

(I) SUPPORT FOR A GRANDPARENT, KIN, OR OTHER SUITABLE PERSON FOR CARE OF A JUVENILE RELEASED TO THE PERSON'S CARE;

(II) SUPPORT FOR FOSTER PARENTS;

(III) RECRUITMENT OF FOSTER PARENTS; AND

(IV) RESPITE CHILD CARE.

(3) OF THE MONEY APPROPRIATED PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT SHALL USE ONE MILLION SEVEN HUNDRED EIGHTY THOUSAND ONE HUNDRED THIRTY-SEVEN DOLLARS TO PROVIDE INCENTIVES AND REMOVE BARRIERS FOR LICENSED PROVIDERS TO SERVE YOUTH WHO MAY BE PLACED IN COMMUNITY RESIDENTIAL FACILITIES OR FAMILY-LIKE SETTINGS IN LIEU OF DETENTION. IN ORDER TO BE ELIGIBLE TO RECEIVE AN INCENTIVE OR OTHER FUNDING PURSUANT TO THIS SUBSECTION (3), A PROVIDER MUST BE LICENSED TO PROVIDE OR OPERATE ANY OF THE FOLLOWING: TEMPORARY SHELTER, AS DEFINED IN SECTION 19-1-103; A RESIDENTIAL CHILD CARE FACILITY, AS DEFINED IN SECTION 26-6-903; A QUALIFIED RESIDENTIAL TREATMENT PROGRAM, AS DEFINED IN SECTION 26-5.4-102; A PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY, AS DEFINED IN SECTION 25.5-4-103; THERAPEUTIC FOSTER CARE OR TREATMENT FOSTER CARE, AS EACH IS DEFINED IN SECTION 26-6-903; OR A FOSTER CARE HOME, AS DEFINED IN SECTION 26-6-903 (10).

(4) (a) OF THE MONEY APPROPRIATED PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE DEPARTMENT SHALL USE ONE MILLION THREE HUNDRED FIFTY-NINE THOUSAND NINE HUNDRED EIGHTY-TWO DOLLARS FOR THE PROVISION OF TEMPORARY EMERGENCY DETENTION BEDS DESCRIBED IN SUBSECTION (4)(b) OF THIS SECTION.

(b) TWENTY-TWO TEMPORARY EMERGENCY DETENTION BEDS ARE AVAILABLE STATEWIDE. A TEMPORARY EMERGENCY DETENTION BED DOES NOT COUNT TOWARD THE LIMIT OF JUVENILE DETENTION BEDS AVAILABLE PURSUANT TO SECTION 19-2.5-1514. THE DEPARTMENT SHALL ANNUALLY ALLOCATE THE NUMBER OF TEMPORARY EMERGENCY DETENTION BEDS TO EACH CATCHMENT AREA IN THE STATE CREATED PURSUANT TO SECTION 19-2.5-1513. A TEMPORARY EMERGENCY DETENTION BED MAY BE MADE AVAILABLE TO A JUDICIAL DISTRICT PURSUANT TO A

COURT ORDER ISSUED PURSUANT TO, AND SUBJECT TO THE RESTRICTIONS SET FORTH IN, SUBSECTION (4)(c) OF THIS SECTION.

(c) (I) THE DISTRICT ATTORNEY OF A JUDICIAL DISTRICT OR A COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES MAY PETITION THE COURT NO LATER THAN THE NEXT BUSINESS DAY AFTER THE JUVENILE IS DETAINED TO EXCEED THE NUMBER OF JUVENILE DETENTION BEDS ALLOCATED TO A JUDICIAL DISTRICT PURSUANT TO SECTION 19-2.5-1405 FOR THE PERIOD OF TIME BEFORE THE DETENTION HEARING FOR THE JUVENILE WHO WOULD UTILIZE THE REQUESTED TEMPORARY EMERGENCY DETENTION BED, IF:

(A) WHEN ALL STATUTORILY AVAILABLE DETENTION BEDS ALLOCATED TO THE JUDICIAL DISTRICT AND ANY JUDICIAL DISTRICT SHARING THE SAME FACILITY ARE FULLY UTILIZED, THE JUDICIAL DISTRICT IS PRESENTED WITH A JUVENILE WHO IS CHARGED WITH COMMITTING A DELINQUENT ACT WHO SCREENS INTO DETENTION BASED ON THE CURRENT DETENTION SCREENING INSTRUMENT;

(B) EACH BED LOANED BY THE JUDICIAL DISTRICT TO ANOTHER JUDICIAL DISTRICT, AS DESCRIBED IN SECTION 19-2.5-1405 (1)(b), HAS BEEN RELINQUISHED TO THE LOANING JUDICIAL DISTRICT;

(C) NO DETENTION BEDS ARE AVAILABLE WITHIN THE JUDICIAL DISTRICT'S CATCHMENT AREA; AND

(D) THERE ARE NO AVAILABLE JUVENILE DETENTION BEDS IN ANY FACILITY WITHIN FIFTY MILES OF THE INITIAL RECEIVING JUVENILE DETENTION FACILITY. THIS SUBSECTION (4)(c)(I)(C) DOES NOT APPLY TO A PETITION FOR A TEMPORARY EMERGENCY DETENTION BED IF: THE POINT OF ARREST OF THE JUVENILE WAS FIFTY MILES OR MORE FROM THE INITIAL RECEIVING JUVENILE DETENTION FACILITY; OR IF THE PETITION IS FOR A JUVENILE TO UTILIZE A BED AT THE JUVENILE'S INITIAL RECEIVING FACILITY WHEN THE JUVENILE IS RETURNED TO THE INITIAL RECEIVING FACILITY BECAUSE THE JUVENILE WAS UTILIZING A BED BORROWED FROM ANOTHER JUDICIAL DISTRICT AND THE BORROWED BED IS NO LONGER AVAILABLE FOR USE BY THE JUVENILE.

(II) UPON RECEIPT OF A PETITION TO EXCEED THE NUMBER OF JUVENILE DETENTION BEDS ALLOCATED TO A JUDICIAL DISTRICT FILED PURSUANT TO THIS SUBSECTION (4)(c), A COURT SHALL ISSUE AN ORDER PERMITTING A JUDICIAL DISTRICT TO EXCEED THE NUMBER OF JUVENILE DETENTION BEDS ALLOCATED TO THE CATCHMENT AREA UP TO THE NUMBER OF TEMPORARY EMERGENCY DETENTION BEDS ALLOCATED TO THE CATCHMENT AREA BY THE DEPARTMENT IF THE COURT SPECIFICALLY FINDS THAT THE FOLLOWING CIRCUMSTANCES EXIST:

(A) NO DETENTION BEDS ARE AVAILABLE IN THE CATCHMENT AREA;

(B) THERE IS A LEGAL BASIS FOR DETAINING EACH JUVENILE WHO IS DETAINED IN THE JUDICIAL DISTRICT, WHICH MAY INCLUDE FOR EACH JUVENILE SCREENED THAT THE DETENTION SCREENING INSTRUMENT DOES NOT SUPPORT RELEASE BECAUSE THE JUVENILE PRESENTS A SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS OR IS A FLIGHT RISK FROM PROSECUTION;

(C) SERVICES ARE NOT AVAILABLE FOR ANY JUVENILE CURRENTLY PLACED IN DETENTION IN THE JUDICIAL DISTRICT THAT WOULD MITIGATE THE SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS PRESENTED BY THE JUVENILE OR THE JUVENILE'S RISK OF FLIGHT FROM PROSECUTION; AND

(D) OTHER FORMS OF COMMUNITY-BASED SUPERVISION FOR THE INCOMING JUVENILE ARE NOT SUFFICIENT TO MITIGATE THE SUBSTANTIAL RISK OF SERIOUS HARM TO OTHERS PRESENTED BY THE JUVENILE OR THE JUVENILE'S RISK OF FLIGHT FROM PROSECUTION.

(III) IF A DETENTION BED WITHIN THE JUDICIAL DISTRICT'S ALLOCATION THAT IS UNDER THE STATEWIDE DETENTION BED CAP BECOMES AVAILABLE, THE JUVENILE UTILIZING A TEMPORARY EMERGENCY DETENTION BED SHALL REVERT TO THE NONEMERGENCY DETENTION BED AND THE REQUIREMENTS IN THIS SUBSECTION (4) NO LONGER APPLY. IF A DETENTION BED BECOMES AVAILABLE WITHIN THE JUDICIAL DISTRICT'S CATCHMENT AREA BUT AT A DIFFERENT FACILITY, THE JUVENILE MAY, AT THE DISCRETION OF THE JUDICIAL DISTRICT, REMAIN IN THE TEMPORARY EMERGENCY DETENTION BED IN LIEU OF TRANSFERRING TO THE NONEMERGENCY DETENTION BED IN A DIFFERENT FACILITY.

(IV) ON THE FIFTH BUSINESS DAY FOLLOWING THE ISSUANCE OR RENEWAL OF EACH COURT ORDER ISSUED PURSUANT TO THIS SUBSECTION (4)(c), IF THE CIRCUMSTANCES DESCRIBED IN SUBSECTION (4)(c)(I) OF THIS SECTION EXIST AND THE JUVENILE REMAINS DETAINED IN THE TEMPORARY EMERGENCY DETENTION BED, THE PERSON WHO FILED THE INITIAL PETITION PURSUANT TO SUBSECTION (4)(c)(I) OF THIS SECTION, OR THE PERSON'S DESIGNEE, SHALL INFORM THE COURT THAT THE CIRCUMSTANCES STILL EXIST AND THE JUVENILE REMAINS DETAINED IN THE TEMPORARY EMERGENCY DETENTION BED. AT THE TIME OF INFORMING THE COURT, THE PERSON SHALL ALSO PROVIDE THE COURT WITH UPDATED INFORMATION ABOUT THE CIRCUMSTANCES THE COURT IS REQUIRED TO FIND PURSUANT TO SUBSECTION (4)(c)(II) OF THIS SECTION. UPON NOTIFICATION FROM THE PERSON, THE COURT SHALL HOLD A HEARING TO DETERMINE WHETHER TO RENEW THE ORDER. THE COURT MAY RENEW ITS ORDER FOR AN ADDITIONAL FIVE DAYS IF IT MAKES THE FINDINGS REQUIRED IN SUBSECTION (4)(c)(II) OF THIS SECTION FOR ISSUANCE OF A COURT ORDER.

(5) (a) ACCESS TO SERVICES AND TEMPORARY EMERGENCY DETENTION BEDS CREATED OR EXPANDED WITH MONEY APPROPRIATED PURSUANT TO THIS SECTION MUST BE AVAILABLE AND ACCESSIBLE TO YOUTH BEGINNING NO LATER THAN DECEMBER 1, 2023.

(b) THIS SUBSECTION (5) IS REPEALED, EFFECTIVE JUNE 30, 2024.

**SECTION 3.** In Colorado Revised Statutes, 19-2.5-305, **add** (2.5) as follows:

**19-2.5-305. Detention and shelter - hearing - time limits - findings - review - guardian ad litem appointed - confinement with adult offenders - restrictions.**  
(2.5) THE COURT SHALL, AT THE JUVENILE'S DETENTION HEARING, APPOINT A GUARDIAN AD LITEM FOR A JUVENILE DETAINED PURSUANT TO THIS ARTICLE 2.5. AN APPOINTMENT MADE PURSUANT TO THIS SUBSECTION (2.5) TERMINATES UPON THE

RELEASE OF THE JUVENILE FROM DETENTION UNLESS THE COURT ALSO FINDS A BASIS FOR THE APPOINTMENT PURSUANT TO SECTION 19-1-111 (2)(a).

**SECTION 4.** In Colorado Revised Statutes, 19-2.5-1404, **amend** (1)(b)(VII) and (3)(b) introductory portion; and **add** (3)(d) and (3)(e) as follows:

**19-2.5-1404. Working group for criteria for placement of juvenile offenders - establishment of formula - review of criteria - report.** (1) (b) The working group shall carry out the following duties:

(VII) ~~At least every two years, to~~ ANNUALLY review data collected by the division of youth services on the use of funding pursuant to subsection (1)(b)(V) of this section and its impact on the use of juvenile detention. The working group shall identify the measures that it will collect as part of its review of the impact of preadjudicated funding on detention pursuant to this section.

(3) (b) On or before July 1, 2023, and on or before July 1 each year thereafter, the department of human services shall submit a report to the working group, the judiciary committees of the senate and the house of representatives, or any successor committees, and the health and human services committee of the senate and the public and behavioral health and human services committee of the house of representatives, or any successor committees. ~~including~~ THE REPORT MUST INCLUDE THE DATA COLLECTED PURSUANT TO SUBSECTION (3)(d) OF THIS SECTION FOR THE PRIOR CALENDAR YEAR AND THE FOLLOWING:

(d) BEGINNING FOR STATE FISCAL YEAR 2023-24, AND FOR EACH FISCAL YEAR THEREAFTER, THE STATE DEPARTMENT SHALL COLLECT DATA STATEWIDE CONCERNING THE FOLLOWING:

(I) THE DEMOGRAPHIC INFORMATION, INCLUDING RACE, ETHNICITY, GENDER, AGE, SEXUAL ORIENTATION, GENDER IDENTITY, AND DISABILITY STATUS, TO THE EXTENT THE INFORMATION IS AVAILABLE, OF THE YOUTH IN EACH DETENTION FACILITY WHO ARE ELIGIBLE FOR RELEASE FROM A DETENTION FACILITY WITHOUT AN ADDITIONAL COURT ORDER IF SERVICES OR A PLACEMENT ARE AVAILABLE FOR THE YOUTH BUT WHO ARE BEING HELD IN DETENTION DUE TO LACK OF AVAILABLE SERVICES OR PLACEMENT;

(II) THE NUMBER OF TEMPORARY EMERGENCY DETENTION BEDS, DESCRIBED IN SECTION 19-2.5-1407.3 (4), USED EACH DAY IN EACH CATCHMENT AREA; AND

(III) THE NUMBER OF YOUTH RELEASED FROM DETENTION SOLELY BECAUSE THE NUMBER OF YOUTH DETAINED STATEWIDE EXCEEDED THE STATEWIDE DETENTION BED CAP ESTABLISHED IN SECTION 19-2.5-1514.

(e) (I) THE WORKING GROUP SHALL CONDUCT A STUDY TO DETERMINE HOW TO IDENTIFY, WHO POSSESSES, AND THE BEST METHOD TO COLLECT AND REPORT, THE FOLLOWING DATA AND INFORMATION RELATED TO JUVENILES WHO ARE DETAINED:

(A) THE NUMBER OF COURT ORDERS REQUESTED IN EACH JUDICIAL DISTRICT TO RELEASE A YOUTH WHO COULD NOT OTHERWISE BE RELEASED FROM DETENTION AND THE ORDER WAS REQUESTED SOLELY BECAUSE THE NUMBER OF YOUTH DETAINED IN

THE JUDICIAL DISTRICT EXCEEDED THE NUMBER OF JUVENILE DETENTION BEDS ALLOCATED BY THE DIVISION OF YOUTH SERVICES TO THE JUDICIAL DISTRICT;

(B) THE NUMBER OF YOUTH IN EACH JUDICIAL DISTRICT WHO COULD NOT OTHERWISE BE RELEASED FROM DETENTION WHO WERE RELEASED PURSUANT TO A COURT ORDER TO MAKE A DETENTION BED AVAILABLE IN THE CATCHMENT AREA; AND

(C) THE NUMBER OF YOUTH ELIGIBLE FOR RELEASE FROM A DETENTION FACILITY WITHOUT AN ADDITIONAL COURT ORDER WHO, AFTER BEING HELD IN DETENTION FOR A PERIOD OF TIME DUE TO A LACK OF AVAILABLE SERVICES OR PLACEMENT, ARE RELEASED FROM DETENTION WITHOUT THE IDENTIFIED SERVICES OR PLACEMENT, AND THE NUMBER OF DAYS BETWEEN THE IDENTIFICATION OF THE NEED FOR SERVICES OR PLACEMENT AND RELEASE, FOR EACH YOUTH.

(II) THE WORKING GROUP SHALL INCLUDE THE RESULTS OF THE STUDY IN ITS RECOMMENDATIONS MADE PURSUANT TO SUBSECTION (3)(a)(III) OF THIS SECTION.

**SECTION 5. Appropriation.** (1) For the 2023-24 state fiscal year, \$3,340,119 is appropriated to the department of human services for use by the office of children, youth, and families. This appropriation is from the general fund. To implement this act, the office may use this appropriation as follows:

(a) \$1,174,816 for use by the division of youth services for program administration related to institutional programs, which amount is based on an assumption that the division will require an additional 15.0 FTE;

(b) \$11,792 for use by the division of youth services for medical services related to institutional programs;

(c) \$300,816 for use by the division of youth services for S.B. 91-094 programs related to community programs, which amount is based on an assumption that the division will require an additional 1.0 FTE;

(d) \$1,780,137 for use by the division of child welfare for community provider incentives; and

(e) \$72,558 for use by the division of child welfare for Colorado Trails.

(2) For the 2023-24 state fiscal year, the general assembly anticipates that the department of human services will receive \$39,069 in federal funds for use by the division of child welfare to implement this act. The appropriation in subsection (1)(e) of this section is based on the assumption that the division will receive this amount of federal funds, which is subject to the "(I)" notation as defined in the annual general appropriation act for the same fiscal year.

(3) For the 2023-24 state fiscal year, \$463,000 is appropriated to the judicial department for use by the office of the child's representative. This appropriation is from the general fund. To implement this act, the office may use this appropriation for court-appointed counsel.

**SECTION 6. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 7, 2023