

HUMAN SERVICES

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SB 14-098 (Enacted)
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During the 2014 session, the General Assembly considered a variety of human services-related bills. Specifically, the legislature considered bills related to mental health professionals and emergency mental health holds, individuals with developmental disabilities, child care assistance programs, the child welfare system, adoption records and visitation of family members in child custody cases, assistance programs for elders and disabled individuals, and abuse of at-risk elders.

Mental Health Care

Current law provides civil immunity for mental health providers who have a duty to warn a specific person or persons when a patient has communicated to a provider a serious threat of imminent physical violence. **House Bill 14-1271** expands the provisions of law governing the civil immunity and duty to warn to include persons identifiable by their association with a specific location or entity.

House Bill 14-1253, which was deemed lost in the House of Representatives, would have implemented the recommendations of the Civil Commitment Statute Review Committee. The committee met during the 2013 legislative interim to make recommendations regarding the consolidation of mental health, alcohol, and substance abuse disorder statutes related to civil commitments. Specifically, the bill would have:

- created a single process for emergency holds and short-term and long-term treatment for substance misuse and substance use disorders;
- removed the option for a jury trial for a certification of a mental health or substance misuse hold;
- modified the definitions of the terms "gravely disabled" and "danger to self or others;"
- removed the requirement that danger to self or others be imminent in order to issue a emergency mental health hold; and
- encouraged treatment facilities to inquire at admission as to whether or not a patient with behavioral health illness had an advance directive.

Individuals with Disabilities

The state currently owns and operates three regional centers, which are residential homes for individuals with developmental disabilities who have severe and intensive needs. **House Bill 14-1338** creates the 15-member Regional Centers Task Force to study a variety of issues related to the regional centers. Specifically, the study will assess how many beds the centers need to meet the state's needs, whether one or more regional centers should be closed, how clients can be transitioned to community placements if a center is closed, and how the regional centers should be used in the future. The bill directs the state Department of Human Services (DHS) to contract for a utilization study for the state's regional centers. The utilization study findings are to be completed by December 1, 2014, and presented to the task force and to the General Assembly. The task force must report to specific legislative committees, and is repealed December 31, 2015. Prior to the task force's repeal, the department is prohibited from selling any regional center and is required to maintain an adequate supply of beds in the regional centers for previous residents of the centers who have unsuccessfully transitioned into the community.

Currently, youth with developmental disabilities between the ages of 18 and 21 are served in the child welfare system. **House Bill 14-1368** requires county departments of social services to develop a plan to transition the youth in this age range to adult services.

Child Care

The Colorado Child Care Assistance Program (CCCAP) provides child care assistance to working parents, parents in training programs or that are searching for employment, and families that receive Temporary Assistance to Needy Families. The program is administered by county departments of social services. Several bills considered in the 2014 legislative session addressed the eligibility criteria for and administration of the program.

House Bill 14-1317 makes the following changes to the CCCAP:

- requires the state DHS to publish CCCAP provider rates for each county every other year;
- allows counties to opt out of the state-established rates and to establish their own rates;
- by 2016, whether the rates are established by counties or the DHS, requires provider rates to include tiered rates based on provider quality;
- requires the DHS to conduct a study examining private tuition rates and how those compare to CCCAP rates set by the state and the counties. The study must also include recommendations on increasing the participation of child care providers in the CCCAP;
- requires counties to serve families with incomes up to 165 percent of the federal poverty level (FPL) and allows counties to serve any family whose income does not exceed 85 percent of the state median income;
- by 2016, establishes a tiered copayment system in which families who enroll their children in programs with higher quality ratings will pay reduced copayments;
- limits the copayment for families with incomes under 100 percent of the FPL to 1 percent of the family's gross monthly income;
- expands CCCAP eligibility to include parents who are enrolled in a postsecondary education program or a workforce training program for up to two years;
- specifies that the hours authorized for the provision of child care through CCCAP must promote continuous, consistent, and regular care and must not be linked directly to a parent's employment, education, or workforce training schedule;
- specifies that a parent's income received during the past 30 days must be used in determining CCCAP eligibility unless, on a case-by-case basis, the prior 30-day period does not provide an accurate indication of anticipated income;
- requires counties to reimburse CCCAP providers for a specific number of days for absences or holidays, based on the quality rating of the provider;
- requires counties to maintain an accurate CCCAP waiting list; and
- requires counties to determine that families who receive Supplemental Nutrition Assistance Program benefits are eligible for the CCCAP.

House Bill 14-1022 requires, to the extent practicable, that the authorization notice for a child who is enrolled in the CCCAP be the same as the eligibility period for the child's family. The bill authorizes counties to reduce the number of families served in the CCCAP to ensure that the counties do not exceed their funding for the applicable fiscal year as a result of the bill.

Senate Bill 14-003 makes modifications to an existing pilot program to mitigate the "cliff effect" in the CCCAP. The "cliff effect" refers to the circumstance in which a family that is enrolled in the CCCAP receives an increase in income that is large enough to make the family ineligible for

assistance through the CCCAP, but the increase is not sufficient for the family to pay the full cost of child care. The bill extends the pilot program through June 30, 2019, and creates a grant program to fund the costs for counties who choose to participate in the pilot program. It also specifies that counties have discretion to design the pilot program in the manner that best addresses the counties' specific needs, and to limit enrollment in the pilot program.

The General Assembly considered one additional bill related to child care. **House Bill 14-1072** creates a refundable income tax credit for child care expenses. The credit is equal to 25 percent of the taxpayer's child care expenses, up to maximum of \$500 for a single dependent or \$1,000 for multiple dependents. In order to claim the credit, the taxpayer must have an annual income of \$25,000 or less, the care must be provided to a child below 13 years of age, and the taxpayer must have insufficient federal tax liability to claim the current state child care credit. The taxpayer may claim the credit for tax years 2014 through 2016.

Child Welfare

Two bills concerned child abuse cases related to controlled substances; both bills were lost in the Senate. For purposes of child and neglect cases handled under the Colorado Children's Code, **Senate Bill 14-177** would have defined "drug endangered child" to mean a child in any case in which:

- in the presence of a child, or on the premises where a child was found or resided, a controlled substance was, or was attempted to be, manufactured, distributed, cultivated, produced, possessed, when the activity threatened the health or welfare of the child;
- a child's health or welfare was threatened by unrestricted access to either a controlled substance or any legal substance capable of causing a mental or physical impairment;
- a child's health or welfare was threatened by the impairment of the person responsible for the care of the child if the impairment was due to the use of either a controlled substance, or any legal substance capable of causing a mental or physical impairment; or
- a child tested positive at birth for a schedule I or a schedule II controlled substance unless the child tested positive for a schedule II controlled substance as a result of the mother's lawful intake of a prescribed substance.

Senate Bill 14-178 would have specified that a person commits child abuse in the following circumstances, if the activity poses a threat of injury to the child's life or health:

- on the premises where a child was found or resides, or in a vehicle containing a child, a person knowingly and unlawfully distributed or obtained, or attempted to distribute or obtain, a controlled substance;
- a parent or lawful guardian of a child or a person having the care or custody of a child knowingly or recklessly allowed the child to be present in any location where a person unlawfully distributed or obtained, or attempted to distribute or obtain, a controlled substance; or
- in the presence of a child, or on the premises where a child was found or resided, or in a vehicle containing a child, a person knowingly cultivated, produced, possessed, or used a controlled substance or attempt any of these activities.

Senate Bill 14-203 establishes the Office of the Respondent Parents' Counsel in the Judicial Department, beginning January 1, 2016. The purpose of the office is to provide legal representation for parents involved in judicial dependency and neglect proceedings in Colorado and who cannot afford legal representation.

The General Assembly established the Office of the Child Protection Ombudsman in 2010. The office investigates complaints about child protection services and serves as a resource to the public regarding child welfare issues. **Senate Bill 14-201** creates a volunteer advisory work group to make recommendations regarding the implementation, autonomy, and accountability of the office. The work group must submit its plan to certain committees of the General Assembly, the Executive Director of the Department of Human Services, and the Governor by December 1, 2014.

Adoption and Visitation

The General Assembly considered two bills related to access to adoption records. **Senate Bill 14-051** eliminates previous law that limited access to adoption records based on the date the adoption was finalized, and creates a consistent policy for access. As under current law, adoption records are confidential from the general public, and the birth parent may indicate a preference regarding contact by the adult adoptee or his or her descendants. Under the bill, a custodian of adoption records must provide access to an adult adoptee or the adoptive parent of a minor adoptee upon request. Records held by a child placement agency may not be made available if the birth parent has previously provided the court and the child placement agency with a signed and notarized written statement specifying that the parent wishes his or her identifying information to remain confidential. A birth parent may apply for a copy of the original birth certificate, as long as his or her parental rights were not terminated as a result of a dependency or neglect action. Adult adoptees and birth parents may access the death certificates and records of an adoptee or birth parent who is deceased.

House Bill 14-1042 requires that a custodian of records provide a birth parent who relinquishes a child for adoption and who is not the subject of a dependency or neglect action a copy of any documents related to the relinquishment that are signed by the birth parent. In addition, the custodian of records must provide a birth parent copies of specific documents, including the original birth certificate, the final order of relinquishment, the notice to terminate the parent-child relationship, and the medical records of the birth mother. The custodian of records must provide the records to the birth parent upon the records' creation; if a birth parent was not previously provided the records, the bill requires the custodian of the records to release them to the birth parent.

House Bill 14-1372 addresses the practice of "rehoming" a child without the involvement of a private or public child welfare agency. The bill makes it unlawful to advertise through a public medium to:

- find a child to adopt or to otherwise take permanent physical custody of a child;
- find an adoptive home or any other permanent physical placement for a child; or
- offer to place a child for adoption or in any other permanent physical placement with another person.

A similar bill, **House Bill 14-1149**, was deemed lost.

Senate Bill 14-062 creates a process to reinstate the parental rights of parents whose rights were previously terminated, in certain circumstances. A county department of social services with custody of a child, the guardian ad litem for a child, or a child 16 years of age or older, may petition to have the parent-child legal relationship restored if:

- the child is 12 years of age or older, or is younger than 12 years of age but is part of a sibling group that includes a child for whom a petition to reinstate the parent-child legal relationship has been filed;
- both the child and the former parent consent to the petition for reinstatement of the parent-child legal relationship;
- the child does not have a legal parent, is not in an adoptive placement, and is not likely to be adopted within a reasonable period of time, and other permanency options have been exhausted;
- the child is in the legal custody of a county department of social services;
- at least three years have passed since the parent-child relationship was terminated (or less time, if the court finds that it is in the child's best interest); and
- the dependency and neglect action did not involve substantiated allegations of sexual abuse, an incident of egregious abuse or neglect against a child, or a near fatality.

At an initial hearing, the court must evaluate, among other things, whether the parent has remedied the cause of the prior termination, what services and supports are necessary for successful reinstatement, and whether the former parent can provide a safe and stable home for the child. If the court finds that these conditions have been met, and it is in the best interests of the child, it must approve a transition plan designed to reinstate the parent-child legal relationship. The plan may include visitation or placement of the child with the former parent for a designated trial period of up to 6 months. If, at the end of the trial period, the court finds by clear and convincing evidence that it is in the best interests of the child for the parental relationship to be reinstated, the court may order the reinstatement.

Current law allows grandparents to seek visitation rights in child custody cases or cases involving the allocation of parental responsibilities. **House Bill 14-1362** allows great-grandparents to seek visitation in the same circumstances.

Assistance Programs

The Aid to the Needy Disabled (AND) Program provides cash assistance to individuals aged 18 to 59 who have been medically certified as disabled and are unable to work for a period of at least 6 months. The current monthly AND payment is \$175 per month, which may be offset by other income or benefits received by the recipient. **Senate Bill 14-012** increases the monthly cash assistance payments by 8 percent. It encourages the DHS to increase the payment annually so that it eventually equals the FY 2006-07 payment and to add annual cost-of-living adjustments. Counties may waive the requirement that a client apply for Supplemental Security Income (SSI) assistance prior to receiving AND benefits. The bill also creates the Federal Supplemental Security Income Application Assistance Pilot Program in the DHS. The pilot program will provide assistance to SSI applicants in order to increase the approval rate and timeliness of federal SSI applications. The DHS must contract for and implement the pilot program by October 1, 2014.

The Property Tax, Rent, and Heat Assistance grant program (PTC program) provides assistance through grants to low-income seniors, surviving spouses, and individuals with disabilities for property taxes, rent, or heating and fuel expenses. Starting in tax year 2014, **Senate Bill 14-014** makes the following changes to the PTC program:

- increases the maximum property tax assistance grant from \$600 to \$700;
- increases the income limits for grant eligibility from approximately \$12,639 to \$12,720 for individuals and \$16,935 to \$17,146 for spouses; and
- establishes flat minimum grant amounts for any eligible individual or spouse of \$227 for the property tax assistance grant and \$73 for the heat or fuel expenses assistance grant, assuming that the actual expenses exceed these amounts.

Senate Bill 14-180 transfers the Dental Assistance Program for Seniors, also known as the Old Age Pension (OAP) Dental Program, from the Department of Public Health and Environment to the Department of Health Care Policy and Financing (HCPF). The bill renames the program as the Colorado Dental Health Care Program for Low-Income Seniors. The program will provide covered dental care services to eligible seniors who are not eligible for dental services under Medicaid, the Old Age Pension Health and Medical Care Program, or private insurance. Beginning July 1, 2015, HCPF will provide grants to organizations that either directly provide dental services to eligible clients or that contract for dental services. Services available under the program must include oral examinations, x-rays, and full and partial dentures. The bill creates the Senior Dental Advisory Committee to advise HCPF on the operation of, and eligibility criteria for, the program.

Elder Abuse

Current law defines at-risk adults as persons 70 years of age and older. **Senate Bill 14-098** creates the crime of criminal exploitation of an at-risk. A person commits criminal exploitation of an at-risk elder when he or she knowingly uses deception, harassment, intimidation, or undue influence to permanently or temporarily deprive an at-risk elder of the use, benefit, or possession of any thing of value. Criminal exploitation of an at-risk elder is a class 5 felony if the thing of value is less than \$500, and a class 3 felony if greater than \$500.