

HOUSE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

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Date

April 5, 2022

Committee on Public & Behavioral Health & Human Services.

After consideration on the merits, the Committee recommends the following:

HB22-1283 be amended as follows, and as so amended, be referred to the Committee on Appropriations with favorable recommendation:

1 Amend printed bill, page 3, after line 18 insert:

2 "SECTION 2. In Colorado Revised Statutes, **add with amended**  
3 **and relocated provisions** 26-5-116 as follows:

4 **26-5-116. [Formerly 27-60-113] Out-of-home placement for**  
5 **children and youth with mental or behavioral needs - funding -**  
6 **report - rules - legislative declaration - repeal.** (1) (a) The general  
7 assembly finds and declares that:

8 (I) The COVID-19 pandemic has lead to an emergency need for  
9 increased placements for children and youth with behavioral or mental  
10 health needs, including those involved with the child welfare system; and

11 (II) As the state works to transition to the critical requirements of  
12 the federal "Family First Prevention Services Act", it must ensure a  
13 smooth transition by helping existing residential child care facilities  
14 transition to qualified residential treatment programs or psychiatric  
15 residential treatment facilities.

16 (b) Therefore, the general assembly declares that the state should  
17 provide resources to qualified residential treatment programs, psychiatric  
18 residential treatment facilities, or therapeutic foster care providers to  
19 address this emergency situation and ensure there are high-quality  
20 providers available to meet these needs.

21 (2) (a) On or before August 1, 2021, the state department shall  
22 develop a program to provide emergency resources to licensed providers  
23 to help remove barriers such providers face in serving children and youth  
24 whose behavioral or mental health needs require services and treatment  
25 in a residential child care facility. Any such licensed provider shall meet  
26 the requirements of a qualified residential treatment program, as defined  
27 in section 26-5.4-102; a psychiatric residential treatment facility, as

1 defined in ~~section 26-5.4-103~~ (19.5) SECTION 25.5-4-103 (19.5);  
2 TREATMENT FOSTER CARE; or therapeutic foster care. ~~as defined in section~~  
3 ~~26-6-102~~ (39).

4 (b) (I) BEGINNING JULY 1, 2022, THE STATE DEPARTMENT SHALL  
5 PROVIDE ONGOING OPERATIONAL SUPPORT FOR PSYCHIATRIC RESIDENTIAL  
6 TREATMENT FACILITIES, THERAPEUTIC FOSTER CARE, TREATMENT FOSTER  
7 CARE, AND QUALIFIED RESIDENTIAL TREATMENT PROGRAMS AS DESCRIBED  
8 IN SUBSECTION (2)(a) OF THIS SECTION.

9 (II) FOR THE 2022-23 BUDGET YEAR, THE GENERAL ASSEMBLY  
10 SHALL APPROPRIATE MONEY FROM THE BEHAVIORAL AND MENTAL HEALTH  
11 CASH FUND CREATED IN SECTION 24-75-230 TO THE STATE DEPARTMENT  
12 TO FUND OPERATIONAL SUPPORT FOR PSYCHIATRIC RESIDENTIAL  
13 TREATMENT FACILITIES FOR YOUTH, QUALIFIED RESIDENTIAL TREATMENT  
14 PROGRAMS, THERAPEUTIC FOSTER CARE, AND TREATMENT FOSTER CARE  
15 FOR YOUTH ACROSS THE STATE AS DESCRIBED IN THIS SUBSECTION (2).

16 (III) MONEY SPENT PURSUANT TO THIS SUBSECTION (2) MUST  
17 CONFORM WITH THE ALLOWABLE PURPOSES SET FORTH IN THE FEDERAL  
18 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS AMENDED.  
19 THE STATE DEPARTMENT SHALL EITHER SPEND OR OBLIGATE SUCH  
20 APPROPRIATION PRIOR TO DECEMBER 30, 2024, AND EXPEND THE  
21 APPROPRIATION ON OR BEFORE DECEMBER 31, 2026.

22 (IV) THIS SUBSECTION (2)(b) IS REPEALED, EFFECTIVE SEPTEMBER  
23 1, 2027.

24 (c) THE STATE DEPARTMENT AND ANY PERSON WHO RECEIVES  
25 MONEY FROM THE STATE DEPARTMENT SHALL COMPLY WITH THE  
26 COMPLIANCE, REPORTING, RECORD-KEEPING, AND PROGRAM EVALUATION  
27 REQUIREMENTS ESTABLISHED BY THE OFFICE OF STATE PLANNING AND  
28 BUDGETING AND THE STATE CONTROLLER IN ACCORDANCE WITH SECTION  
29 24-75-226 (5).

30 ~~(3) The state department may promulgate rules concerning the~~  
31 ~~placement of a child or youth in the program. The rules may address~~  
32 ~~quality assurance monitoring, admissions, discharge planning, appropriate~~  
33 ~~length of stay, an appeals process for children and youth who are~~  
34 ~~determined ineligible for the program, and compliance with applicable~~  
35 ~~federal law, including the federal "Family First Prevention Services Act";~~  
36 ~~except that rules concerning the placement of a child or youth who is not~~  
37 ~~in the custody of a state or county department of human or social services~~  
38 ~~shall MUST not inappropriately apply compliance with such act.~~

39 (4) (a) On or before December 31, 2021, the state department shall  
40 contract with licensed providers for the delivery of services to children  
41 and youth who are determined eligible for and placed in the program. A  
42 provider that contracts with the state department shall not:

43 (I) Deny admittance of a child or youth if the child or youth

1 otherwise meets the eligibility criteria for the program; or  
2 (II) Discharge a child or youth based on the severity or complexity  
3 of the ~~child~~ CHILD'S or youth's physical, behavioral, or mental health  
4 needs; except that the state department may arrange for the placement of  
5 a child or youth with an alternate contracted provider if the placement  
6 with the alternate provider is better suited to deliver services that meet the  
7 needs of the child or youth.  
8 (b) The state department shall reimburse a provider directly for the  
9 costs associated with the placement of a child or youth in the program for  
10 the duration of the treatment, including the costs the provider  
11 demonstrates are necessary in order for the provider to operate  
12 continuously during this period.  
13 (c) The state department shall coordinate with the department of  
14 health care policy and financing to support continuity of care and  
15 payment for services for any children or youth placed in the program.  
16 (d) The state department shall reimburse the provider one hundred  
17 percent of the cost of unutilized beds in the program to ensure available  
18 space for emergency residential out-of-home placements.  
19 (5) (a) A hospital, health-care provider, provider of case  
20 management services, school district, managed care entity, or state or  
21 county department of human or social services may refer a family for the  
22 placement of a child or youth in the program. The entity referring a child  
23 or youth for placement in the program shall submit or assist the family  
24 with submitting an application to the state department for review. The  
25 state department shall consider each application as space becomes  
26 available. The state department shall approve admissions into the program  
27 and determine admission and discharge criteria for placement.  
28 (b) The state department shall develop a discharge plan for each  
29 child or youth placed in the program. The plan must include the eligible  
30 period of placement of the child or youth and shall identify the entity that  
31 will be responsible for the placement costs if the child or youth remains  
32 with the provider beyond the date of eligibility identified in the plan.  
33 (c) The entity or family that places the child or youth in the  
34 program retains the right to remove the child or youth from the program  
35 any time prior to the discharge date specified by the state department.  
36 (6) Within seven days after submitting an application to the state  
37 department for placing a child or youth in the program, the state  
38 department shall work with the referring entity and the child's or youth's  
39 parents or legal guardians to ensure the child or youth is assessed for  
40 eligibility for enrollment into the state medical assistance program. A  
41 child or youth who is eligible for enrollment into the state medical  
42 assistance program shall be enrolled. Enrollment of a child or youth into  
43 the state medical assistance program does not constitute automatic

1 placement into the program.  
2 (7) ~~No later than November 1, 2022, 2023, and 2024~~ ON OR  
3 BEFORE NOVEMBER 1, 2023, AND EVERY NOVEMBER 1 THEREAFTER, the  
4 state department shall submit a written report to the house of  
5 representatives public and behavioral health and human services  
6 committee, the senate health and human services committee, or their  
7 successor committees, and the joint budget committee. At a minimum, the  
8 report must include:  
9 (a) The number of applications received for placement of children  
10 and youth in the program;  
11 (b) The number of children and youth accepted for placement in  
12 the program;  
13 (c) The duration of each placement; and  
14 (d) The daily rate paid to each provider for placement of children  
15 and youth.  
16 (8) This section is intended to provide enhanced emergency  
17 services resulting from the increased need for services due to the  
18 COVID-19 pandemic. No later than September 30, 2024, the state  
19 department shall submit recommendations to the house of representatives  
20 public and behavioral health and human services committee, the senate  
21 health and human services committee, or their successor committees, and  
22 the joint budget committee about how to provide necessary services for  
23 children and youth in need of residential care, including hospital  
24 step-down services on an ongoing basis.  
25 (9) This section is repealed, effective ~~July 1, 2025~~ JULY 1, 2028."

26 Renumber succeeding sections accordingly.

27 Page 3, line 25, strike "TEN TO TWELVE" and substitute "UP TO SEVEN".

28 Page 4, strike lines 14 through 27.

29 Page 5, strike lines 1 through 12 and substitute:

30 "(c) (I) BEGINNING IN STATE FISCAL YEAR 2023-24, MONEY  
31 APPROPRIATED TO THE STATE DEPARTMENT FOR THE PURPOSE OF THIS  
32 SUBSECTION (1.5) MUST CONTINUE THE STATEWIDE ACCESS TO CRISIS  
33 SYSTEM SERVICES FOR CHILDREN AND YOUTH ESTABLISHED IN SECTION  
34 26-5-116 THAT SPECIFICALLY TARGETS IN-HOME RESPITE CARE UNTIL JUNE  
35 30, 2026;  
36 (II) BEGINNING IN THE STATE FISCAL YEAR 2022-23, MONEY  
37 APPROPRIATED TO THE STATE DEPARTMENT FOR THE PURPOSE OF  
38 IMPLEMENTING THIS SUBSECTION (1.5) MUST SUPPORT RESIDENTIAL

1 RESPITE CARE PROVIDED TO YOUTH INVOLVED IN THE FOSTER CARE  
2 SYSTEM; AND  
3 (III) RESPITE FOSTER CARE HOMES MUST BE IN COMPLIANCE WITH  
4 ALL OTHER APPLICABLE RULES REGULATING FOSTER CARE HOMES."

5 Page 5, strike lines 19 and 27 and substitute:

6 "SECTION 4. In Colorado Revised Statutes, **repeal** 27-60-113."

7 Strike page 6.

8 Page 7, strike lines 1 through 23 and substitute:

9 "SECTION 5. In Colorado Revised Statutes, **add** 27-80-127 as  
10 follows:

11 **27-80-127. Children and youth in need of residential mental**  
12 **health and substance use treatment -repeal.** (1) ON OR BEFORE JULY  
13 1, 2023, THE BEHAVIORAL HEALTH ADMINISTRATION, CREATED PURSUANT  
14 TO PART 2 OF ARTICLE 60 OF TITLE 27, SHALL CREATE, DEVELOP, OR  
15 CONTRACT TO ADD ADDITIONAL RESIDENTIAL SUBSTANCE USE TREATMENT  
16 BEDS FOR YOUTH. TO THE GREATEST EXTENT POSSIBLE, THE DEPARTMENT  
17 SHALL ENSURE THAT BOTH MENTAL HEALTH AND SUBSTANCE USE  
18 TREATMENT SERVICES ARE AVAILABLE IN ONE RESIDENTIAL LOCATION.  
19 THE DEPARTMENT SHALL WORK COLLABORATIVELY WITH THE  
20 BEHAVIORAL HEALTH ADMINISTRATION FOR LICENSING AND DETERMINING  
21 THE GREATEST AREAS OF NEED.

22 (2) (a) (I) FOR THE 2022-23 BUDGET YEAR, THE GENERAL  
23 ASSEMBLY SHALL APPROPRIATE FIVE MILLION DOLLARS FROM THE  
24 BEHAVIORAL AND MENTAL HEALTH CASH FUND, CREATED PURSUANT TO  
25 SECTION 24-75-230, TO THE DEPARTMENT TO EXPAND SUBSTANCE USE  
26 RESIDENTIAL TREATMENT BEDS FOR ADOLESCENTS, AS DESCRIBED IN  
27 SUBSECTION (1) OF THIS SECTION.

28 (II) MONEY SPENT PURSUANT TO THIS SUBSECTION (2) MUST  
29 CONFORM WITH THE ALLOWABLE PURPOSES SET FORTH IN THE FEDERAL  
30 "AMERICAN RESCUE PLAN ACT OF 2021", PUB.L. 117-2, AS AMENDED.  
31 THE DEPARTMENT SHALL EITHER SPEND OR OBLIGATE SUCH  
32 APPROPRIATION PRIOR TO DECEMBER 30, 2024, AND EXPEND THE  
33 APPROPRIATION ON OR BEFORE DECEMBER 31, 2026.

34 (b) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE SEPTEMBER 1,  
35 2027.

36 (3) THE DEPARTMENT OF HUMAN SERVICES AND ANY PERSON THAT  
37 RECEIVES MONEY FROM THE DEPARTMENT OF HUMAN SERVICES SHALL  
38 COMPLY WITH THE COMPLIANCE, REPORTING, RECORD-KEEPING, AND

1 PROGRAM EVALUATION REQUIREMENTS ESTABLISHED BY THE OFFICE OF  
2 STATE PLANNING AND BUDGETING AND THE STATE CONTROLLER IN  
3 ACCORDANCE WITH SECTION 24-75-226 (5).

4 **SECTION 6.** In Colorado Revised Statutes, **add** 27-90-112 as  
5 follows:

6 **27-90-112. Youth neuro-psych facility at the center - funding**".

7 Renumber succeeding section accordingly.

8 Page 7, line 25, strike "OF BUILDING AND STAFFING" and substitute "TO  
9 CREATE, DEVELOP, OR CONTRACT FOR".

10 Page 7, line 26, strike "FACILITY AT THE CENTER." and substitute  
11 "FACILITY".

12 Page 7, line 27, before "YOUTH" insert "COLORADO".

13 Page 8, line 1, after the period add "THE DEPARTMENT SHALL ENSURE ALL  
14 COLORADO CHILDREN AND YOUTH, REGARDLESS OF CHILD WELFARE  
15 INVOLVEMENT, ARE ELIGIBLE FOR ADMISSION TO THE FACILITY AS LONG AS  
16 THEY MEET CLINICAL CRITERIA AS ESTABLISHED BY RULE. THE  
17 DEPARTMENT SHALL NOT DENY ADMITTANCE TO A COLORADO CHILD OR  
18 YOUTH, OR DISCHARGE A COLORADO CHILD OR YOUTH, BASED ON THE  
19 SEVERITY OR COMPLEXITY OF THE CHILD'S PHYSICAL, BEHAVIORAL, OR  
20 MENTAL HEALTH NEEDS."

21 Page 8, lines 11 and 12, strike "THE ACT MAY BE SUBSEQUENTLY".

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