

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 20-1226.01 Jane Ritter x4342

HOUSE BILL 20-1390

HOUSE SPONSORSHIP

Esgar and Ransom, McCluskie

SENATE SPONSORSHIP

Moreno and Rankin, Zenzinger, Crowder, Gonzales

House Committees
Appropriations

Senate Committees
Appropriations

A BILL FOR AN ACT

101 **CONCERNING THE DISCONTINUATION OF THE PILOT PROGRAMS IN THE**
102 **DIVISION OF YOUTH SERVICES THAT WERE ESTABLISHED TO**
103 **CREATE A DIVISION-WIDE THERAPEUTIC CULTURE WITH**
104 **TRAUMA-RESPONSIVE PRACTICES, AND, IN CONNECTION**
105 **THEREWITH, REDUCING AN APPROPRIATION.**

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/>.)

Joint Budget Committee. The bill repeals the pilot programs in the division of youth services that were created to aid in the establishment

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

SENATE
3rd Reading Unamended
June 5, 2020

SENATE
2nd Reading Unamended
June 4, 2020

HOUSE
3rd Reading Unamended
June 3, 2020

HOUSE
2nd Reading Unamended
June 1, 2020

of a division-wide therapeutic and rehabilitative culture, including the use of trauma-responsive principles and practices.

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

2 **SECTION 1.** In Colorado Revised Statutes, 19-2-203, **repeal** (4)
3 as follows:

4 **19-2-203. Division of youth services - created - interagency**
5 **agreements - duties of administrators of facilities in connection with**
6 **voter registration and casting of ballots - reports. (4) Pilot programs**
7 **- fund created - repeal. (a) Legislative declaration.** The general
8 assembly finds that:

9 (I) ~~Youths committed to the care of the division deserve to be~~
10 ~~treated with respect and dignity, using a therapeutic approach delivered~~
11 ~~in a treatment setting where social-emotional competencies are learned~~
12 ~~and practiced by youths and staff;~~

13 (H) ~~Because many youths committed to the care of the division~~
14 ~~have experienced trauma, which may include physical and sexual abuse,~~
15 ~~abandonment, violence in their homes or in their communities, or the loss~~
16 ~~of a family member at a young age, the experience of a safe, humane, and~~
17 ~~nurturing environment is necessary for youths to develop coping skills~~
18 ~~and the ability to trust and form healthy relationships;~~

19 (HH) ~~Almost all youths committed to the division will return to the~~
20 ~~community;~~

21 (IV) ~~Youths in the division's care need treatment and tools that~~
22 ~~prepare them to safely rejoin our communities;~~

23 (V) ~~The environment in the division should be safe, secure, and~~
24 ~~nonviolent to promote building trust and healthy relationships between~~
25 ~~youths and staff and to allow youths to grow and mature responsibly;~~

1 ~~(VI) Rates of violence against youths and staff in the division are~~
2 ~~unacceptably high;~~

3 ~~(VII) Improvements can always be made in the division, which~~
4 ~~strives to have staff and youths engaged with respect and dignity and~~
5 ~~create an environment that is safe for all;~~

6 ~~(VIII) Division staff have an extremely difficult job. They must~~
7 ~~respond daily to extremely troubled youths, including some who act out~~
8 ~~with violence. Even with appropriate staff response, some youths will~~
9 ~~need to be physically restrained.~~

10 ~~(IX) Division staff want to help, and not hurt, youths;~~

11 ~~(X) Nonetheless, certain restraint practices used in youth~~
12 ~~corrections, including full-body restraints, the WRAP, solitary~~
13 ~~confinement, pressure-point or pain-compliance techniques, manipulating~~
14 ~~nerves, mechanical restraints, and knee strikes to thighs, buttocks, and~~
15 ~~ribs are physically and psychologically harmful, destructive to~~
16 ~~relationship building, and inconsistent with the therapeutic,~~
17 ~~trauma-responsive, and non-violent environment the division is~~
18 ~~committed to creating;~~

19 ~~(XI) Fundamental cultural change is needed at the division in~~
20 ~~order to provide for the safety of youths and staff and to effectuate real~~
21 ~~and lasting personal change for the youths in the division's care;~~

22 ~~(XII) Division staff need additional tools and training to reduce~~
23 ~~the use of physical restraints and to promote stronger, healthier~~
24 ~~relationships with youths; and~~

25 ~~(XIII) Transparency and accountability regarding critical~~
26 ~~incidents, fights, assaults, restraints, and injuries that occur in division~~
27 ~~facilities are critical components of cultural change.~~

1 ~~(b) The division shall implement two pilot programs to aid in the~~
2 ~~establishment of a division-wide therapeutic and rehabilitative culture.~~
3 ~~The pilot programs will test the efficacy of a therapeutic group-treatment~~
4 ~~approach and the ability of the division to keep youths and staff safe~~
5 ~~without the use of seclusion and mechanical restraints other than~~
6 ~~handcuffs. In administering the pilot programs, the division shall:~~

7 ~~(I) Provide treatment to at least thirty-five youths committed to the~~
8 ~~division's care, divided into groups of no more than fifteen. In selecting~~
9 ~~youths to participate in the pilot programs, the division shall ensure that~~
10 ~~the youths reflect a representative cross-section of youths committed to~~
11 ~~the division's care with respect to age and history of violence.~~

12 ~~(II) Give hiring or transfer preference to staff who agree to work~~
13 ~~as staff in the pilot program;~~

14 ~~(III) Create teams of youths and staff by assigning each staff~~
15 ~~member to a group of youths, to which group the staff member remains~~
16 ~~assigned throughout the pilot programs;~~

17 ~~(IV) Require staff assigned to the pilot programs to be trained as~~
18 ~~youth specialists and have or acquire substantial knowledge of~~
19 ~~rehabilitative treatment, de-escalation, adolescent behavior modification,~~
20 ~~trauma, safety, and physical management techniques that do not harm~~
21 ~~youths; assign no staff members to the pilot programs solely as security~~
22 ~~staff; and maintain a ratio of staff to youths that meets or exceeds~~
23 ~~nationally recognized standards and reflects best practices;~~

24 ~~(V) Operate healthy, trauma-responsive organizational~~
25 ~~environments as demonstrated through prosocial, safe, and non-violent~~
26 ~~interaction by:~~

27 ~~(A) Prioritizing the physical and psychological safety of youths~~

1 and staff;

2 ~~(B) Meeting the basic needs of youths, which are food, clothing,~~
3 ~~shelter, emotional and physical safety, belonging, and family~~
4 ~~involvement;~~

5 ~~(C) Creating a humane environment for youths that is not~~
6 ~~institutional but is home-like, healthy, and therapeutic;~~

7 ~~(D) Holding youths in the least restrictive environment possible;~~

8 ~~(E) Emphasizing positive behavioral outcomes with the goal of~~
9 ~~helping youths to progress from behavioral compliance to internalized~~
10 ~~change;~~

11 ~~(F) Utilizing the small group process as a primary method of~~
12 ~~providing treatment services, where resolution of core issues and~~
13 ~~development of social-emotional competency can occur, youth behaviors~~
14 ~~are viewed as having a cause, and determining the purpose of a behavior~~
15 ~~is essential to the treatment process;~~

16 ~~(G) To the extent possible, ensuring that each youth in the pilot~~
17 ~~programs remains with his or her group and dedicated staff member~~
18 ~~during waking hours, except for specialized treatment or educational~~
19 ~~services;~~

20 ~~(H) Relying on de-escalation and relationship-building techniques~~
21 ~~that help staff members avoid physical management and restraint;~~

22 ~~(I) Not using restraint methods that physically harm youths,~~
23 ~~including striking youths, using mechanical restraints other than~~
24 ~~handcuffs, and using pain-compliance or pressure-point techniques;~~

25 ~~(J) Prohibiting a youth from participating in the restraint of~~
26 ~~another youth;~~

27 ~~(K) Phasing out completely within the first year of each pilot~~

1 program the practice of placing youths alone in a room or area behind a
2 locked door from which egress is prevented, except during sleeping
3 hours, and avoiding isolation of youths from their peers;

4 (L) Integrating trauma-responsive principles and practices into all
5 elements of programming and ensuring that all staff who work with
6 youths are thoroughly trained to provide trauma-responsive care. For the
7 purposes of this section, "trauma-responsive" care means care in which
8 staff are trained to expect the presence of trauma in the youths being
9 served, to recognize how staff response and organizational practices may
10 trigger painful memories and re-traumatize youths with trauma histories,
11 and to resist taking actions or using words that re-traumatize youths.

12 (M) Providing continuity of services and relationships through a
13 seamless case management system and assignment of a dedicated case
14 manager to each youth, which case manager serves as the primary
15 advocate for the youth and his or her family and works actively with both
16 throughout the pilot programs;

17 (N) Prioritizing family engagement; and

18 (O) Facilitating community engagement, consistent with
19 principles of restorative justice;

20 (VI) Contract through a competitive bid process with an
21 independent third party to facilitate, coach, and train staff and leadership
22 throughout the course of the pilot programs. The independent third party
23 must have expertise in systemic cultural transformation of a youth
24 correctional system from a punitive correctional culture to a rehabilitative
25 and therapeutic culture. The independent third party must have experience
26 training staff in providing relationship-based, group-centered,
27 trauma-responsive care and decreasing violence against youths and staff

1 in facilities. The independent third party shall assist with implementation
2 of the pilot programs, provide training for staff working in the pilot
3 programs, and provide at least one three-quarter-time to full-time
4 consultant to provide on-the-ground mentorship, coaching, and training
5 to pilot program staff members throughout the pilot programs. The
6 consultant shall also provide training to the division's leadership
7 regarding the philosophies and techniques used in the pilot programs. On
8 or before January 1, 2018, and continuing through June 30, 2020, the
9 division shall begin working actively with the contracted independent
10 third party to take the necessary steps to commence the first pilot program
11 as soon as possible, which must begin to serve youths no later than July
12 1, 2018. As soon as possible, but no later than January 30, 2020, the
13 division shall begin working with the second contracted independent third
14 party to commence the second pilot program, which must begin to serve
15 youths no later than July 1, 2020.

16 (VII) (A) Contract through a competitive bid process with an
17 independent contractor other than one of the independent third parties
18 described in subsection (4)(b)(VI) of this section to evaluate the
19 effectiveness and outcome of the pilot programs. Prior to the start of each
20 pilot program, the division and the contractor shall work together to
21 identify the data points to be collected throughout the pilot programs,
22 which must include, but are not limited to, data concerning fights, assaults
23 on youths, assaults on staff, critical incidents, restraints, mechanical
24 restraints, seclusion, injuries to youths, injuries to staff, criminal charges
25 filed against youths or staff, grievances or complaints regarding abuse
26 that have been filed or sustained, staff absences, staff turnover, and youth
27 educational achievement. The division shall collect the data and make it

1 available to the contractor at the contractor's request throughout the pilot
2 programs. For the purposes of this subsection (4)(b)(VII), on or before
3 September 1, 2017, the division shall request proposals from candidates
4 for an evaluation of the first pilot program. The division shall require
5 each candidate to submit its proposal to the division on or before
6 November 1, 2017, and the division shall contract with a candidate on or
7 before December 1, 2017. Not later than October 1, 2019, the
8 independent contractor described in this subsection (4)(b)(VII) shall
9 assess the data provided by the division and complete a report evaluating
10 the effectiveness and outcomes of the first pilot program when compared
11 to one or more comparable populations of youths in the division. For the
12 purposes of this subsection (4)(b)(VII), the division shall contract for an
13 evaluation of the effectiveness and outcomes of the first and second pilot
14 programs when compared to one or more comparable populations of
15 youths in the division to be completed no later than October 1, 2021. The
16 division shall provide the contractors all available data requested to
17 complete the reports.

18 (B) The independent contractors, at least in part, shall base their
19 evaluations of the effectiveness of the pilot programs upon whether they
20 reduce the number of fights, critical incidents, assaults on youths, assaults
21 on staff, injuries to youths, and injuries to staff when compared to
22 comparable populations of youths in the division, and whether they
23 reduce the number of physical managements and mechanical restraints
24 when compared to comparable populations of youths in the division.

25 (C) Not later than October 1, 2019, the first independent
26 contractor shall complete the report described in subsection
27 (4)(b)(VII)(A) of this section and submit it to the judiciary committees of

1 ~~the house of representatives and the senate, to the public health care and~~
2 ~~human services committee of the house of representatives, and to the~~
3 ~~health and human services committee of the senate, or to any successor~~
4 ~~committees.~~

5 ~~(D) Not later than October 1, 2021, the second independent~~
6 ~~contractor shall complete the report described in subsection~~
7 ~~(4)(b)(VII)(A) of this section and submit it to the judiciary committees of~~
8 ~~the house of representatives and the senate, to the public health care and~~
9 ~~human services committee of the house of representatives, and to the~~
10 ~~health and human services committee of the senate, or to any successor~~
11 ~~committees.~~

12 ~~(VIII) Perform the necessary construction and renovation to create~~
13 ~~youth residences for the pilot programs that are home-like and~~
14 ~~therapeutic, including home-like sleeping quarters and living and group~~
15 ~~meeting areas.~~

16 ~~(c) (I) The division of youth services pilot program cash fund,~~
17 ~~referred to in this subsection (4) as the "fund", is hereby created in the~~
18 ~~state treasury. The fund consists of money credited to the fund pursuant~~
19 ~~to subsection (4)(c)(IV) of this section and any other money that the~~
20 ~~general assembly may appropriate or transfer to the fund.~~

21 ~~(II) The state treasurer shall credit all interest and income derived~~
22 ~~from the deposit and investment of money in the fund to the fund. Any~~
23 ~~unexpended and unencumbered money remaining in the fund at the end~~
24 ~~of a fiscal year remains in the fund and does not revert to the general~~
25 ~~fund.~~

26 ~~(III) Subject to annual appropriation by the general assembly, the~~
27 ~~division may expend money from the fund for the purposes described in~~

1 ~~this subsection (4).~~

2 ~~(IV) The division may seek, accept, and expend gifts, grants, or~~
3 ~~donations from private or public sources for the purposes of this~~
4 ~~subsection (4). The division shall transmit all money received through~~
5 ~~gifts, grants, or donations to the state treasurer, who shall credit the~~
6 ~~money to the fund.~~

7 ~~(V) The state treasurer shall transfer all unexpended and~~
8 ~~unencumbered money in the fund on January 3, 2022, to the general fund.~~

9 ~~(d) This subsection (4) is repealed, effective July 1, 2022.~~

10 **SECTION 2.** In Colorado Revised Statutes, 24-75-402, **repeal**
11 (5)(mm) as follows:

12 **24-75-402. Cash funds - limit on uncommitted reserves -**
13 **reduction in the amount of fees - exclusions - repeal.**

14 (5) Notwithstanding any provision of this section to the contrary, the
15 following cash funds are excluded from the limitations specified in this
16 section:

17 ~~(mm) The division of youth services pilot program cash fund~~
18 ~~created in section 19-2-203 (4);~~

19 **SECTION 3. Appropriation - adjustments to 2020 long bill.**

20 (1) To implement this act, the general fund appropriations made in the
21 annual general appropriation act for the 2020-21 state fiscal year to the
22 department of human services for use by the division of youth services
23 are adjusted as follows:

24 (a) The appropriation for personal services related to institutional
25 programs is decreased by \$406,545, and the related FTE is decreased by
26 4.0 FTE; and

27 (b) The appropriation for operating expenses related to

1 institutional programs is decreased by \$204,309.

2 **SECTION 4. Safety clause.** The general assembly hereby finds,
3 determines, and declares that this act is necessary for the immediate
4 preservation of the public peace, health, or safety.