

CHAPTER 361

HEALTH AND ENVIRONMENT

HOUSE BILL 21-1281

BY REPRESENTATIVE(S) Cutter and Will, Amabile, Burnett, Bird, Boesenecker, Caraveo, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Gray, Hooton, Jackson, Jodeh, Kipp, Lontine, McCluskie, McCormick, McLachlan, Michaelson Jenet, Ortiz, Ricks, Sirota, Sullivan, Titone, Valdez D., Young;
also SENATOR(S) Pettersen, Buckner, Danielson, Fenberg, Gonzales, Jaquez Lewis, Story, Winter, Zenzinger.

AN ACT

CONCERNING THE CREATION OF THE COMMUNITY BEHAVIORAL HEALTH DISASTER PREPAREDNESS AND RESPONSE PROGRAM IN THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT TO ENSURE BEHAVIORAL HEALTH IS ADEQUATELY REPRESENTED WITHIN DISASTER PREPAREDNESS AND RESPONSE EFFORTS ACROSS THE STATE, 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) Colorado has a rich history of disaster preparedness efforts across sectors and industries throughout the state;

(b) Colorado has taken deliberate measures to ensure that disaster response is community-oriented and comprehensively accounts for communities' behavioral health needs;

(c) In May 2020, the governor asked the behavioral health task force to establish the COVID-19 special assignment committee to develop key recommendations for consideration in a future crisis;

(d) The committee determined that Colorado must maintain and enhance a coordinated behavioral health emergency disaster response and ensure the permanency of robust resources for preparedness and response;

(e) The COVID-19 pandemic has demonstrated the importance of behavioral

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.

health emergency preparedness and response as communities have worked to manage the short- and long-term impact on the behavioral health of Coloradans;

(f) Behavioral health is a critical component of any adequate emergency response plan, and preparedness efforts are enhanced by the inclusion of community mental health center (CMHC) partners;

(g) Community behavioral health organizations, including CMHCs, have:

(I) Actively responded to local, state, and national emergencies, critical incidents, and disasters for decades;

(II) Supported the recovery from these events, including natural disasters, violence, mass casualty events, and public health crises; and

(III) Been actively involved in community preparedness and response activities associated with local and statewide public health emergencies;

(h) There are costs associated with preparedness and planning activities in addition to the ongoing efforts of response and recovery that often do not have a definitive end date. Additionally, many types of community responses do not have a federal emergency management agency funding stream attached or other ways to reimburse for staff training or time spent during the response or recovery.

(i) Colorado's CMHCs have been actively involved in community preparedness and response activities associated with public health and health-care coalitions for decades without proper or adequate reimbursement, limiting the extent to which efforts can grow and reach the entire Colorado population; and

(j) Disaster behavioral health response differs from traditional psychotherapeutic interventions. The goal is to support normal behavioral functioning and decrease stress, which allows for normal executive functioning of the brain, such as decision-making, problem solving, and cognitive processing. The community behavioral health disaster response coordinator is not a practicing therapist but is instead providing a range of basic services through a tiered response effort that is designed to support normal functioning during and after times of trauma and chaos. The intent of disaster response is to promote individual, family, and community resilience and it helps affected individuals return to a pre-event level of functioning as quickly as possible. Disaster response methods include triage, basic support, psychological first aid, and making appropriate professional referrals in the community. These services are provided both to survivors and first responders, and the actual methods used depend on the type of event, the number of people affected, and the availability of resources.

(2) Therefore, the general assembly declares that it is necessary to formalize the role of Colorado's community behavioral health organizations in the disaster preparedness and response continuum and create avenues for effective and adequate reimbursement for those related activities.

SECTION 2. In Colorado Revised Statutes, **add** part 13 to article 20.5 of title 25 as follows:

PART 13
COMMUNITY BEHAVIORAL HEALTH DISASTER
PREPAREDNESS AND RESPONSE PROGRAM

25-20.5-1301. Definitions. AS USED IN THIS PART 13, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "COMMUNITY BEHAVIORAL HEALTH DISASTER PREPAREDNESS AND RESPONSE PROGRAM" OR "PROGRAM" MEANS THE COMMUNITY BEHAVIORAL HEALTH DISASTER PREPAREDNESS AND RESPONSE PROGRAM CREATED IN SECTION 25-20.5-1302.

(2) "COMMUNITY BEHAVIORAL HEALTH DISASTER RESPONSE COORDINATOR" OR "RESPONSE COORDINATOR" MEANS AN INDIVIDUAL WHO IS DESIGNATED BY A COMMUNITY MENTAL HEALTH CENTER OR OTHER BEHAVIORAL HEALTH PROVIDER TO FULFILL THE DUTIES AND RESPONSIBILITIES OF THE RESPONSE COORDINATOR PURSUANT TO SECTION 25-20.5-1302.

(3) "DISASTER" HAS THE SAME MEANING AS SET FORTH IN SECTION 24-33.5-703.

25-20.5-1302. Community behavioral health disaster preparedness and response program - creation - department duties - rules. (1) SUBJECT TO AVAILABLE APPROPRIATIONS, THE DEPARTMENT SHALL IMPLEMENT THE COMMUNITY BEHAVIORAL HEALTH DISASTER PREPAREDNESS AND RESPONSE PROGRAM USING EXISTING INITIATIVES AND ACTIVITIES TO ENSURE THAT BEHAVIORAL HEALTH IS ADEQUATELY REPRESENTED WITHIN DISASTER PREPAREDNESS AND RESPONSE EFFORTS ACROSS THE STATE.

(2) THE PROGRAM IS INTENDED TO ENHANCE, SUPPORT, AND FORMALIZE BEHAVIORAL HEALTH DISASTER PREPAREDNESS AND RESPONSE ACTIVITIES CONDUCTED BY COMMUNITY BEHAVIORAL HEALTH ORGANIZATIONS, INCLUDING COMMUNITY MENTAL HEALTH CENTERS AS DEFINED IN SECTION 27-66-101 (2); EXCEPT THAT THE ACTIVITIES MUST NOT REPLACE OR SUPERSEDE ANY DISASTER PLANS PREPARED OR MAINTAINED BY A LOCAL OR INTERJURISDICTIONAL EMERGENCY MANAGEMENT AGENCY, AS ESTABLISHED IN SECTION 24-33.5-707. THE ACTIVITIES MAY INCLUDE BUT ARE NOT LIMITED TO:

(a) PREPAREDNESS ACTIVITIES, SUCH AS:

(I) RISK ASSESSMENT, HAZARD VULNERABILITY ASSESSMENTS, AND DISASTER PLANNING;

(II) DEVELOPMENT OF POLICIES AND PROCEDURES FOR DISASTER PREPAREDNESS AND RESPONSE PLANNING;

(III) IMPLEMENTING DISASTER COMMUNICATION PLANS;

(IV) TRAINING ON AND PRACTICING EXISTING DISASTER PREPAREDNESS AND RESPONSE PLANS; AND

(V) ENGAGING WITH LOCAL AND STATE PARTNERS FOR DISASTER PREPAREDNESS AND MEDICAL SURGE PLANNING;

(b) RESPONSE ACTIVITIES, SUCH AS:

(I) COORDINATION AND RESPONSE WITH LOCAL AND STATE PARTNERS;

(II) SUPPORTING EMERGENCY FUNCTIONS, SUCH AS HEALTH AND MEDICAL RESOURCE REQUESTS FOR BEHAVIORAL HEALTH SERVICES;

(III) TRIAGING PSYCHOLOGICAL OR PSYCHO-SOCIAL CARE FOR AFFECTED INDIVIDUALS;

(IV) PROVIDING IMMEDIATE AND ONGOING SUPPORT AND CARE FOR INDIVIDUALS IN CRISIS IMPACTED BY EMERGENCIES AND DISASTERS, INCLUDING PROFESSIONALS WHO RESPOND TO EMERGENCIES AND DISASTERS AND OTHERS ON THE SCENE OF SUCH INCIDENTS; AND

(V) PROVIDING ONGOING FOLLOW-UP, REFERRALS, AND SERVICES FOR AFFECTED INDIVIDUALS; AND

(c) RECOVERY ACTIVITIES, SUCH AS:

(I) PROVIDING ONGOING DEBRIEFING OPPORTUNITIES FOR AFFECTED INDIVIDUALS AND COMMUNITIES; AND

(II) MAINTAINING CONNECTIONS TO ONGOING CARE FOR AFFECTED INDIVIDUALS.

(3) THE DEPARTMENT SHALL:

(a) PROMULGATE RULES AS NECESSARY FOR THE OVERSIGHT AND MANAGEMENT OF THE PROGRAM, INCLUDING ALLOWABLE USES FOR FUNDING ALLOCATED FROM THE COMMUNITY BEHAVIORAL HEALTH DISASTER PREPAREDNESS AND RESPONSE CASH FUND CREATED IN SECTION 25-20.5-1303. THE RULES PROMULGATED PURSUANT TO THIS SUBSECTION (3)(a) MUST ENCOURAGE GEOGRAPHIC AND SOCIOECONOMIC DIVERSITY OF PROVIDERS.

(b) WORK COLLABORATIVELY WITH COMMUNITY BEHAVIORAL HEALTH ORGANIZATIONS, INCLUDING COMMUNITY MENTAL HEALTH CENTERS, TO:

(I) DEVELOP AND MONITOR THE EXPECTED DUTIES AND RESPONSIBILITIES OF RESPONSE COORDINATORS;

(II) DEVELOP MEASURES FOR PREPAREDNESS CAPABILITIES AND A METHODOLOGY FOR REPORTING ON OUTCOMES OF UTILIZED FUNDING AND REPORT ON THE OUTCOMES OF UTILIZED FUNDING TO THE GENERAL ASSEMBLY, AS NECESSARY; AND

(III) DECIDE ON AND ANNUALLY REVIEW AND UPDATE, IF NECESSARY, ALLOWABLE USES FOR THE COMMUNITY BEHAVIORAL HEALTH DISASTER PREPAREDNESS AND RESPONSE CASH FUND CREATED IN SECTION 25-20.5-1303;

(c) CREATE, DEFINE, AND PUBLISH ELIGIBILITY CRITERIA FOR COMMUNITY BEHAVIORAL HEALTH ORGANIZATIONS TO PARTICIPATE IN THE PROGRAM, WHICH AT A MINIMUM MUST CONSIDER CAPABILITIES AND CAPACITY IN THE FOLLOWING

PROGRAMMATIC ELEMENTS:

- (I) SERVICE CAPACITY;
- (II) PLANNING;
- (III) RESPONSE STRIKE TEAM AVAILABILITY;
- (IV) TRAINING; AND
- (V) CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES; AND

(d) PROVIDE FUNDING TO COMMUNITY BEHAVIORAL HEALTH ORGANIZATIONS ON AN ANNUAL OR AS-NEEDED BASIS FOR THE ACTIVITIES OUTLINED IN SUBSECTION (2) OF THIS SECTION; EXCEPT THAT FUNDING MUST NOT BE PROVIDED TO REIMBURSE EXPENSES INCURRED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

25-20.5-1303. Community behavioral health disaster preparedness and response cash fund. (1) THE COMMUNITY BEHAVIORAL HEALTH DISASTER PREPAREDNESS AND RESPONSE CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND", IS CREATED IN THE STATE TREASURY. THE FUND CONSISTS OF GIFTS, GRANTS, AND DONATIONS AND ANY OTHER MONEY THAT THE GENERAL ASSEMBLY MAY APPROPRIATE OR TRANSFER TO THE FUND.

(2) THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT OF MONEY IN THE FUND TO THE FUND.

(3) ANY UNEXPENDED AND UNENCUMBERED MONEY REMAINING IN THE FUND AT THE END OF ANY FISCAL YEAR REMAINS IN THE FUND AND MUST NOT BE TRANSFERRED TO THE GENERAL FUND OR ANY OTHER FUND.

(4) MONEY IN THE FUND IS CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT FOR THE PURPOSES DESCRIBED IN SECTION 25-20.5-1302.

SECTION 3. In Colorado Revised Statutes, 24-75-402, **add** (5)(ss) as follows:

24-75-402. Cash funds - limit on uncommitted reserves - reduction in the amount of fees - exclusions - repeal. (5) Notwithstanding any provision of this section to the contrary, the following cash funds are excluded from the limitations specified in this section:

(ss) THE COMMUNITY BEHAVIORAL HEALTH DISASTER PREPAREDNESS AND RESPONSE CASH FUND CREATED IN SECTION 25-20.5-1303.

SECTION 4. Appropriation. For the 2021-22 state fiscal year, \$529,801 is appropriated to the department of public health and environment for use by the office of emergency preparedness and response. This appropriation is from the general fund and is based on an assumption that the office will require an additional 1.8 FTE. To implement this act, the office may use this appropriation for state directed emergency preparedness and response activities.

SECTION 5. 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 28, 2021