

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.2-5209, 2.2-5211, and 2.2-5212 of the Code of Virginia, relating to Children's Services Act; state pool of funds.

[S 801]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-5209, 2.2-5211, and 2.2-5212 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-5209. Referrals to family assessment and planning team or collaborative, multidisciplinary team process.

The community policy and management team shall establish policies governing the referral of troubled youths and families to the family assessment and planning team or a collaborative, multidisciplinary team process approved by the Council. These policies shall include that all youth and families for which CSA-funded treatment services are requested are to be assessed by the family assessment and planning team or an approved collaborative, multidisciplinary team process and shall consider the criteria set out in subdivisions A 1 and A 2 through 4 of § 2.2-5212. Except for cases involving only the payment of foster care maintenance that shall be at the discretion of the local community policy and management team, cases for which service plans are developed outside of this family assessment and planning team process or approved collaborative, multidisciplinary team process shall not be eligible for state pool funds.

Nothing in this section shall prohibit the use of state pool funds for emergency placements, provided the youth are subsequently assessed by the family assessment and planning team or an approved collaborative, multidisciplinary team process within 14 days of admission and the emergency placement is approved at the time of placement. In cases involving the denial of state pool funds resulting from parental refusal to consent to release of student records under federal law, where such refusal precludes the development of placement through the family assessment and planning team process or the approved collaborative, multidisciplinary team process, an appeal for good cause may be made to the Council.

§ 2.2-5211. State pool of funds for community policy and management teams.

A. There is established a state pool of funds to be allocated to community policy and management teams in accordance with the appropriation act and appropriate state regulations. These funds; ~~as made available by the General Assembly,~~ shall be expended for *the provision of* public or private nonresidential or residential services for troubled youths ~~youth~~ and families. However, funds for private special education services shall only be expended on private educational programs that are licensed by the Board of Education or an equivalent out-of-state licensing agency. Effective July 1, 2022, funds for private special education services shall only be expended on private educational programs that the Office of Children's Services certifies as having reported their tuition rates on a standard reporting template developed by the Office. ~~The Office of Children's Services shall consult with private special education services providers in developing the standard reporting template for tuition rates.~~ The Office of Children's Services shall consult with private special education services providers in developing the standard reporting template for tuition rates.

~~The purposes of this system of funding are to state pool shall:~~

1. Place authority for making program and funding decisions at the community level;
2. Consolidate categorical agency funding and institute community responsibility for the provision of services;
3. Provide greater flexibility in the use of funds to purchase services based on the strengths and needs of children, youths ~~youth~~, and families; and
4. 3. Reduce disparity in accessing services and ~~to reduce~~ inadvertent fiscal incentives for serving children and youth according to differing required local match rates for funding streams.

B. The state pool shall consist of funds that serve the ~~target populations identified in subdivisions 1 through 6 in the purchase of residential and nonresidential services for children and youth.~~ References to funding sources and current placement authority for the targeted populations of children and youth are for the purpose of accounting for the funds in the pool. It is not intended that children and youth be categorized by individual funding streams in order to access services. ~~The following target population shall be the following populations:~~

1. Children and youth placed for purposes of special education in approved private school educational programs; ~~previously funded by the Department of Education through private tuition assistance;~~
2. Children and youth with disabilities placed by local social services agencies or the Department of Juvenile Justice in private residential facilities or across jurisdictional lines in private; special education day

ENROLLED

SB801ER

schools, if the individualized education program indicates such school is the appropriate placement while living in foster homes or child-caring facilities; ~~previously funded by the Department of Education through the Interagency Assistance Fund for Noneducational Placements of Handicapped Children;~~

3. Children and youth for whom foster care services, as defined by § 63.2-905, are being provided;

4. *Children and youth who are determined, by either a juvenile and domestic relations district court or a family assessment and planning team, to be a child in need of services as defined in § 16.1-228 and requiring (i) community-based services to prevent or eliminate the need for an out-of-home placement or (ii) placement outside of the home through an agreement between the public agency designated by the community policy and management team and the parents or legal guardians who retain legal custody of the child or youth;*

5. Children and youth placed by a juvenile and domestic relations district court, in accordance with the provisions of § 16.1-286, in a private or locally operated public facility or nonresidential program, or in a community or facility-based treatment program in accordance with the provisions of subsections B or C of § 16.1-284.1;

5- 6. Children and youth committed to the Department of Juvenile Justice and placed by it in a private home or in a public or private facility in accordance with § 66-14; and

6- 7. Children and youth previously placed pursuant to subdivision 1 in approved private school educational programs for at least six months who will receive transitional services in a public school setting. State pool funds *for transitional services* shall be allocated for no longer than 12 months ~~for transitional services~~. Local agencies may contract with a private school education program provider to provide ~~transition~~ *transitional* services in the public school.

C. The General Assembly and the governing body of each county and city shall annually appropriate such sums of money as shall be sufficient to (i) provide special education services and foster care services for children and youth identified in subdivisions B 1; 2, 3, *through 4 and 6 and 7* and (ii) meet relevant federal mandates for the provision of these services. ~~The community policy and management team shall anticipate to the best of its ability the number of children and youth for whom such services will be required~~ The community policy and management team shall anticipate to the best of its ability the number of children and youth for whom such services will be required ~~and reserve funds from its state pool allocation to meet these needs~~. Nothing in this section ~~prohibits~~ *shall prohibit* local governments from requiring parental or legal financial contributions, where not specifically prohibited by federal or state law or regulation, utilizing a standard sliding fee scale based upon ability to pay, as provided in the appropriation act.

D. ~~When a community services board established pursuant to § 37.2-501, local school division, local social service agency, court service unit, or the Department of Juvenile Justice has referred Referral of a child and family to a family assessment and planning team and that team has recommended, recommendation by that team of the proper level of treatment and services needed by that for the child and family, and has determined determination by the team of the child's eligibility for funding for services through the state pool of funds; then the shall satisfy the fiscal responsibility of the community services board, the local school division, local department of social services agency, court service unit, or Department of Juvenile Justice has met its fiscal responsibility for that child for the with regard to services funded through the pool. However, the community services board, the local school division, local department of social services agency, court service unit, or Department of Juvenile Justice shall continue to be responsible for providing services identified in an individual family service plans plan that are within the agency's scope of responsibility and that are funded separately from the state pool.~~

Further, ~~in~~ *In* any instance that *local department of social services places an individual who is (i) 18 through 21 years of age, inclusive; who is; (ii) eligible for funding from the state pool; and is (iii) properly defined as a school-aged school-age child with disabilities pursuant to § 22.1-213 is placed by a local social services agency that has custody across jurisdictional lines in a group home an approved foster care placement in the Commonwealth and the individual's individualized education program (IEP), as prepared by the placing local educational authority in the jurisdiction where the individual resides, indicates that a private day school placement is the appropriate educational program for such individual, the financial and legal responsibility for the individual's special education services and IEP shall remain; in compliance with the provisions of federal law, Article 2 (§ 22.1-213) of Chapter 13 of Title 22.1, and Board of Education regulations; the responsibility of with the placing jurisdiction until the individual reaches the age of 21, inclusive, or is no longer eligible for special education services; The financial and legal responsibility for such special education services shall remain with the placing jurisdiction, unless the placing jurisdiction has transitioned all appropriate services with the individual, in compliance with the provisions of federal law, Article 2 (§ 22.1-213 et seq.) of Chapter 13 of Title 22.1, and Board of Education regulations.*

E. In any matter properly before a court for which state pool funds are to be accessed, the court shall, prior to final disposition, and pursuant to §§ 2.2-5209 and 2.2-5212, refer the matter to the community policy and management team for assessment by a local family assessment and planning team authorized by policies of the community policy and management team for assessment to determine the recommended level of treatment and services needed by the child and family. The family assessment and planning team making the assessment shall make a report of the case or forward a copy of the individual family services plan to the

court within 30 days of the court's written referral to the community policy and management team. The court shall consider the recommendations of the family assessment and planning team and the community policy and management team. If, prior to a final disposition by the court, the court is requested to consider requests a level of service not identified or recommended in the report submitted by the family assessment and planning team, the court shall request ask the community policy and management team to submit a second report characterizing comparable levels of service to the requested level of service. Notwithstanding the provisions of this subsection, the court may make any disposition as is authorized or required by law. Services ordered pursuant to a disposition rendered by the court pursuant to this section shall qualify for funding as appropriated under this section.

F. As used in this section, "transitional services" includes services delivered in a public school setting directly to students with significant disabilities or intensive support needs to facilitate their transition back to public school after having been served in a private special education day school or residential facility for at least six months. "Transitional services" includes one-on-one aides, speech therapy, occupational therapy, behavioral health services, counseling, applied behavior analysis, specially designed instruction delivered directly to the student, or other services needed to facilitate such transition that are delivered directly to the student in their public school over the 12-month period as identified in the child's individualized education program.

§ 2.2-5212. Eligibility for state pool of funds.

A. ~~In order to be eligible for funding for services through the state pool of funds, a~~ A child, youth, or family with a child; ~~shall meet one or more of the criteria specified in subdivisions 1 through 4 and shall be eligible for funding through the state pool of funds if it is determined through the use of a the uniform assessment instrument and process and by approved by the State Executive Council for Children's Services as provided for in subdivision D 11 of § 2.2-2648 and in accordance with the policies of the community policy and management team to have access to these funds; that the child or youth:~~

1. ~~The child or youth has~~ Has emotional or behavior problems that:

- a. Have persisted over a significant period of time or, though only in evidence for a short period of time, are of such a critical nature that intervention is warranted;

- b. Are significantly disabling and are present in several community settings, such as at home, in school, or with peers; and

- c. Require services or resources that are unavailable or inaccessible, or that are beyond the normal agency services or routine collaborative processes across agencies, or require coordinated interventions by at least two agencies; and

- d. ~~Have resulted in the child or youth, or place the child or youth at imminent risk of, entering purchased residential care;~~

2. ~~The child or youth has emotional or behavior problems, or both, and currently is in, or is at imminent risk of entering, purchased residential care. In addition, the child or youth requires services or resources that are beyond normal agency services or routine collaborative processes across agencies, and requires coordinated services by at least two agencies.~~

3. ~~The child or youth requires~~ Requires placement for purposes of special education in approved private school educational programs or for transitional services as set forth in subdivision B 6 7 of § 2.2-5211.;

4. ~~The child or youth requires~~ 3. Requires foster care services as defined in § 63.2-905; or

4. ~~Has been determined by either a juvenile and domestic relations district court or a family assessment and planning team to be a child in need of services as defined in § 16.1-228.~~

B. For purposes of determining eligibility for the state pool of funds, "child" or "youth" means (i) a person younger than 18 years of age or (ii) any individual ~~through 21 years of age~~ who is otherwise eligible for mandated services of the participating state agencies including special education and foster care services.