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An Act

HOUSE BILL 14-1368

BY REPRESENTATIVE(S) May and Gerou, Duran, Buckner, Exum, Ginal, Kagan, Kraft-Tharp, Lebsock, Lee, Melton, Mitsch Bush, Moreno, Pettersen, Primavera, Rosenthal, Ryden, Salazar, Schafer, Singer, Vigil, Wright, Young;

also SENATOR(S) Hodge, Steadman, Lambert, Aguilar, Crowder, Guzman, Heath, Herpin, Jahn, Kefalas, Kerr, King, Newell, Nicholson, Rivera, Schwartz, Tochtrop, Todd.

CONCERNING THE TRANSITION OF YOUTH AGES EIGHTEEN THROUGH TWENTY-ONE WHO HAVE INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO THE ADULT PROGRAM OF SERVICES FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES, AND, IN CONNECTION THEREWITH, MAKING AND REDUCING APPROPRIATIONS.

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

SECTION 1. In Colorado Revised Statutes, 25.5-6-403, **add** (3.3) as follows:

25.5-6-403. Definitions. As used in this part 4, unless the context otherwise requires:

(3.3) (a) "INTELLECTUAL AND DEVELOPMENTAL DISABILITY" MEANS

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

A DISABILITY THAT MANIFESTS BEFORE THE PERSON REACHES TWENTY-TWO YEARS OF AGE, THAT CONSTITUTES A SUBSTANTIAL DISABILITY TO THE AFFECTED PERSON, AND THAT IS ATTRIBUTABLE TO MENTAL RETARDATION OR RELATED CONDITIONS, WHICH INCLUDE CEREBRAL PALSY, EPILEPSY, AUTISM, OR OTHER NEUROLOGICAL CONDITIONS WHEN THOSE CONDITIONS RESULT IN IMPAIRMENT OF GENERAL INTELLECTUAL FUNCTIONING OR ADAPTIVE BEHAVIOR SIMILAR TO THAT OF A PERSON WITH MENTAL RETARDATION. UNLESS OTHERWISE SPECIFICALLY STATED, THE FEDERAL DEFINITION OF "DEVELOPMENTAL DISABILITY" FOUND IN 42 U.S.C. SEC. 15001 ET SEQ. SHALL NOT APPLY.

(b) "PERSON WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY" OR "YOUTH WITH AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY" MEANS A PERSON OR YOUTH DETERMINED BY A COMMUNITY-CENTERED BOARD TO HAVE AN INTELLECTUAL AND DEVELOPMENTAL DISABILITY AND SHALL INCLUDE A CHILD WITH A DEVELOPMENTAL DELAY.

(c) "CHILD WITH A DEVELOPMENTAL DELAY" MEANS:

(I) A PERSON LESS THAN FIVE YEARS OF AGE WITH DELAYED DEVELOPMENT AS DEFINED BY RULE OF THE STATE BOARD; OR

(II) A PERSON LESS THAN FIVE YEARS OF AGE WHO IS AT RISK OF HAVING A DEVELOPMENTAL DISABILITY AS DEFINED BY RULE OF THE STATE BOARD.

SECTION 2. In Colorado Revised Statutes, **add 25.5-6-409.5** as follows:

25.5-6-409.5. Transition plan for youth with intellectual and developmental disabilities to adult services - legislative declaration - report - rules - cash fund - repeal. (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

(a) YOUTH WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO ARE EIGHTEEN TO TWENTY YEARS OF AGE ARE CURRENTLY SERVED THROUGH THE COUNTY CHILD WELFARE SYSTEM; AND

(b) THE HOME- AND COMMUNITY-BASED SERVICES PROGRAM FOR

PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES IS BETTER DESIGNED TO MEET THE COMPLEX NEEDS OF THESE YOUTH.

(2) THEREFORE, THE GENERAL ASSEMBLY DECLARES THAT, IN ORDER TO HAVE A PERSON-CENTERED SYSTEM, YOUTH WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO ARE EIGHTEEN YEARS OF AGE AND OLDER WHO ARE CURRENTLY BEING SERVED THROUGH CHILD WELFARE SERVICES MUST BE TRANSITIONED TO THE HOME- AND COMMUNITY-BASED SERVICES PROGRAM FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES AND A PLAN DEVELOPED FOR THE ONGOING TRANSITION OF SUCH YOUTH WHEN THEY TURN EIGHTEEN YEARS OF AGE EXCEPT IN EXTENUATING CIRCUMSTANCES WHEN THE COURT OR INTERDISCIPLINARY TEAM DETERMINES THAT IT IS NOT IN THE BEST INTEREST OF THE YOUTH TO TRANSITION.

(3) (a) ON OR BEFORE JUNE 30, 2014, EACH COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES SHALL IDENTIFY YOUTH WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO ARE RECEIVING SERVICES THROUGH THE CHILD WELFARE SYSTEM IN THAT COUNTY AND WHO:

(I) ARE TWENTY YEARS OF AGE OR OLDER AS OF JUNE 30, 2014;

(II) ARE NINETEEN YEARS OF AGE OR OLDER BUT YOUNGER THAN TWENTY-ONE YEARS OF AGE AS OF JUNE 30, 2014;

(III) ARE EIGHTEEN YEARS OF AGE OR OLDER BUT YOUNGER THAN TWENTY YEARS OF AGE AS OF JUNE 30, 2014; AND

(IV) WILL BECOME EIGHTEEN YEARS OF AGE ON OR AFTER JUNE 30, 2014, AND BEFORE JANUARY 1, 2015.

(b) ON OR BEFORE OCTOBER 1, 2014, AND AS NECESSARY THEREAFTER, EACH COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES SHALL IDENTIFY YOUTH WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO ARE RECEIVING SERVICES THROUGH THE CHILD WELFARE SYSTEM IN THAT COUNTY AND WHO WILL BECOME EIGHTEEN YEARS OF AGE WITHIN THE FOLLOWING SIX MONTHS.

(c) EACH COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES

SHALL DEVELOP A PLAN TO TRANSITION YOUTH IDENTIFIED PURSUANT TO PARAGRAPHS (a) AND (b) OF THIS SUBSECTION (3) TO ADULT SERVICES FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES. THE TRANSITION PLAN MUST MEET THE CRITERIA SET FORTH IN SUBSECTION (4) OF THIS SECTION AND ANY RULES PROMULGATED BY THE STATE BOARD TO IMPLEMENT THIS SECTION. EACH COUNTY'S PLAN MUST PROVIDE FOR:

(I) YOUTH DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (3) TO BE TRANSITIONED AS SOON AS POSSIBLE BUT IN NO CASE LATER THAN JANUARY 1, 2016; AND

(II) YOUTH DESCRIBED IN SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (3) OR PARAGRAPH (b) OF THIS SUBSECTION (3) TO BE TRANSITIONED AS SOON AS POSSIBLE BASED ON INDIVIDUAL NEEDS BUT IN NO CASE EARLIER THAN THEIR EIGHTEENTH BIRTHDAY.

(d) THE REQUIREMENT TO TRANSITION YOUTH AS SET FORTH IN PARAGRAPH (c) OF THIS SUBSECTION (3) DOES NOT APPLY TO YOUTH CURRENTLY SERVING A SENTENCE IN THE DIVISION OF YOUTH CORRECTIONS OR TO YOUTH UNDER A COURT ORDER IN A JUVENILE DELINQUENCY CASE, UNLESS THE COURT APPROVES THE TRANSITION BY WRITTEN COURT ORDER.

(4) FOR EACH YOUTH WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES WHO IS GOING TO BE TRANSITIONED TO ADULT SERVICES FOR PERSONS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PURSUANT TO SUBSECTION (3) OF THIS SECTION, THE COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES THAT IS CURRENTLY PROVIDING SERVICES TO THE YOUTH THROUGH ITS CHILD WELFARE SYSTEM SHALL DEVELOP A TRANSITION PLAN FOR THAT YOUTH. THE TRANSITION PLAN MUST, AT A MINIMUM:

(a) INCLUDE THE DEPARTMENT-PRESCRIBED ASSESSMENT PROVIDED BY THE COMMUNITY-CENTER BOARD THAT IS PERFORMED AS SOON AS POSSIBLE FOR THOSE YOUTH WHO ARE BEING TRANSITIONED PURSUANT SUBSECTION (3) OF THIS SECTION AND AT SEVENTEEN AND A HALF YEARS OF AGE FOR THOSE YOUTH WHO ARE BEING TRANSITIONED PURSUANT TO SUBPARAGRAPH (IV) OF PARAGRAPH (a) OF SUBSECTION (3) OF THIS SECTION OR PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION. IN ALL INSTANCES, THE ASSESSMENT MUST BE COMPLETED WITHIN SIX MONTHS OF A YOUTH'S TRANSITION TO ADULT SERVICES.

(b) PROVIDE FOR THE SOCIAL, HABILITATIVE, REMEDIAL, RESIDENTIAL, EDUCATIONAL, HEALTH, AND OTHER NEEDS OF THE YOUTH WHO IS BEING TRANSITIONED; AND

(c) ADDRESS ANY LEGAL NEEDS CONCERNING GUARDIANSHIP OF THE YOUTH WHO IS BEING TRANSITIONED.

(5) IN ALL INSTANCES, THE INVOLVED PARTIES AND THE COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES SHALL CONSIDER AND PLACE PRECEDENCE ON THE BEST INTEREST OF THE YOUTH PRIOR TO THE TRANSITION PROCESS, AS SET FORTH IN SECTIONS 19-3-205 AND 19-3-213, C.R.S.

(6) IT IS THE INTENT OF THE GENERAL ASSEMBLY THAT COUNTY CHILD WELFARE SYSTEMS AND COMMUNITY-CENTERED BOARDS COLLABORATE TO ENSURE MINIMAL DISRUPTION FOR YOUTH DURING THE TRANSITION PROCESS.

(7) THE MEDICAL SERVICES BOARD AND THE STATE BOARD OF HUMAN SERVICES MAY PROMULGATE RULES AS NECESSARY AND APPROPRIATE FOR THE IMPLEMENTATION OF THIS SECTION.

(8) THE DEPARTMENT SHALL SUBMIT A REPORT TO THE JOINT BUDGET COMMITTEE ON OR BEFORE JANUARY 1, 2015, AND ON OR BEFORE JANUARY 1, 2016, ON THE STATUS OF THE YOUTH BEING TRANSITIONED. THE REPORT MUST INCLUDE, AT A MINIMUM:

(a) THE NUMBER OF YOUTH TRANSITIONED TO DATE BY COUNTY;

(b) THE NEEDS ASSESSMENT OF THE YOUTH WHO HAVE BEEN TRANSITIONED; AND

(c) THE TYPE OF ADULT RESIDENTIAL LOCATIONS OF THE YOUTH WHO HAVE BEEN TRANSITIONED.

(9) (a) THERE IS HEREBY CREATED IN THE STATE TREASURY THE CHILD WELFARE TRANSITION CASH FUND, REFERRED TO IN THIS SECTION AS THE "FUND", CONSISTING OF MONEYS THAT THE GENERAL ASSEMBLY APPROPRIATES THERETO. ON JULY 1, 2014, THE STATE TREASURER SHALL DEDUCT TWO MILLION EIGHT HUNDRED TWENTY-NINE THOUSAND FIVE

HUNDRED EIGHTY-SIX DOLLARS FROM THE GENERAL FUND AND TRANSFER SUCH SUM TO THE FUND. THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE MONEYS IN THE FUND FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH IMPLEMENTING THIS SECTION. ANY UNEXPENDED AND UNENCUMBERED MONEYS FROM AN APPROPRIATION MADE PURSUANT TO THIS PARAGRAPH (a) FOR THE FISCAL YEAR COMMENCING ON JULY 1, 2014, REMAIN AVAILABLE FOR EXPENDITURE IN THE NEXT FISCAL YEAR WITHOUT FURTHER APPROPRIATION. THE STATE TREASURER MAY INVEST ANY MONEYS IN THE FUND NOT EXPENDED FOR THE PURPOSE OF THIS SECTION AS PROVIDED BY LAW. THE STATE TREASURER SHALL CREDIT ALL INTEREST AND INCOME DERIVED FROM THE INVESTMENT AND DEPOSIT OF MONEYS IN THE FUND TO THE FUND. ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE END OF A FISCAL YEAR REMAIN IN THE FUND AND SHALL NOT BE CREDITED OR TRANSFERRED TO THE GENERAL FUND OR ANOTHER FUND; EXCEPT THAT THE STATE TREASURER SHALL TRANSFER ANY UNEXPENDED AND UNENCUMBERED MONEYS REMAINING IN THE FUND AT THE TIME OF ITS REPEAL TO THE GENERAL FUND.

(b) THIS SUBSECTION (9) IS REPEALED, EFFECTIVE JULY 1, 2016.

SECTION 3. In Colorado Revised Statutes, 26-5-102, **add** (2) (j) as follows:

26-5-102. Provision of child welfare services - system reform goals. (2) Reforms in child welfare and related delivery systems shall be directed at the following objectives:

(j) SUCCESSFUL TRANSITION OF INDIVIDUALS EIGHTEEN TO TWENTY YEARS OF AGE WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES TO ADULT SERVICES FOR INDIVIDUALS WITH INTELLECTUAL AND DEVELOPMENTAL DISABILITIES PURSUANT TO SECTION 25.5-6-409.5, C.R.S.

SECTION 4. Appropriation - adjustments to 2014 long bill. For the implementation of this act, the general fund appropriation made in the annual general appropriation act to the department of human services, division of child welfare, for child welfare services, for the fiscal year beginning July 1, 2014, is decreased by \$2,829,586.

SECTION 5. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the child

welfare transition cash fund created in section 25.5-6-409.5 (9) (a), Colorado Revised Statutes, not otherwise appropriated, to the department of human services, for the fiscal year beginning July 1, 2014, the sum of \$2,829,586, or so much thereof as may be necessary, for allocation to the division of child welfare for services to youth who will be transitioned pursuant to section 25.5-6-409.5, Colorado Revised Statutes, related to the implementation of this act. Once a youth served with moneys appropriated to the department of human services in this section 5 is transitioned to the home- and community-based waiver services program for persons with intellectual and developmental disabilities pursuant to section 25.5-6-409.5, Colorado Revised Statutes, the moneys associated with that youth shall no longer be available to the department of human services. Additionally, it is the intent of the General Assembly that these moneys be counted as part of the state dollars calculated in the county block grant allocation.

SECTION 6. Appropriation. In addition to any other appropriation, there is hereby appropriated, to the department of health care policy and financing, for the fiscal year beginning July 1, 2014, the sum of \$5,746,227, or so much thereof as may be necessary, for allocation to the division of intellectual and developmental disabilities for program costs related to home- and community-based waiver services for youth with intellectual and developmental disabilities who will be transitioned pursuant to section 25.5-6-409.5, Colorado Revised Statutes, and served by the funding in section 5 of this act by the department of human services. Of said sum, \$2,829,586, or so much thereof that remains from the appropriation in section 5 of this act shall be from the child welfare transition cash fund created in section 25.5-6-409.5 (9) (a), Colorado Revised Statutes, and \$2,916,641, or so much as necessary to match the cash funds amount from the child welfare transition cash fund created in section 25.5-6-409.5 (9) (a), shall be from federal funds. It is the intent of the General Assembly that once a youth that is served with moneys appropriated to the department of human services in section 5 of this act is transitioned from child welfare services to home- and community-based services waiver program for persons with intellectual and developmental disabilities pursuant to section 25.5-6-409.5, Colorado Revised Statutes, the moneys associated with that youth shall be available to the department of health care policy and financing in this section 6.

SECTION 7. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Mark Ferrandino
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Morgan Carroll
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO