

HOUSE BILL NO. 565

INTRODUCED BY P. NOONAN

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4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING CHILDREN WITH MENTAL HEALTH NEEDS WITH

5 IN-STATE SERVICE ALTERNATIVES TO OUT-OF-STATE PLACEMENT; REVISING DEPARTMENT OF

6 PUBLIC HEALTH AND HUMAN SERVICES PROCEDURES FOR DETERMINING PLACEMENT OF CHILDREN

7 IN OUT-OF-STATE SERVICES; REQUIRING THE DEPARTMENT TO DIFFERENTIATE BETWEEN

8 MODERATE AND INTENSIVE NEEDS FOR HIGH-RISK CHILDREN; EXPANDING REPORTING

9 REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 52-2-308, 52-2-310,

10 AND 52-2-311, MCA."

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12 WHEREAS, the 1993 Montana Legislature recognized that some Montana children have mental health

13 and other needs that require services from multiple agencies; and

14 WHEREAS, the 1993 Legislature expressed a desire to provide services to these children in their homes

15 or communities whenever possible and to use out-of-state providers as a last resort; and

16 WHEREAS, subsequent legislatures have strengthened the policy first established in 1993 by

17 encouraging development of an array of in-state services so that children placed out of state may return home

18 and children in the state are able to remain in their homes, community, or the state; and

19 WHEREAS, the 2009 Legislature required the Department of Public Health and Human Services to

20 establish an in-state pool of providers and protocol to give these children opportunities for services in their homes

21 or communities from this pool of providers as a last resort before out-of-state placements; and

22 WHEREAS, the 2009 Legislature required the Department of Public Health and Human Services to report

23 to the Legislature on the number of out-of-state placements and the attempts to continue to provide services in

24 Montana; and

25 WHEREAS, information from the Department of Public Health and Human Services indicates that

26 out-of-state placements of children continue.

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28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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30 **Section 1.** Section 52-2-308, MCA, is amended to read:



1 **"52-2-308. Rulemaking.** The department shall adopt rules necessary to implement ~~52-2-301 through~~
 2 ~~52-2-304 and 52-2-309~~ this part. The rules must be adopted in cooperation with the committee established in
 3 52-2-303."

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5 **Section 2.** Section 52-2-310, MCA, is amended to read:

6 **"52-2-310. Development and use of ~~in-state pool of providers~~ qualified provider pools.** (1) In order
 7 to accomplish the goals of 52-2-301, the department shall establish a pool of qualified in-state providers and a
 8 pool of qualified out-of-state providers identified as willing and able to meet the significant needs of high-risk
 9 children with multiagency service needs who are currently placed or may be placed out of state. The department
 10 shall design a process in which licensed providers qualify for ~~the~~ a pool by demonstrating their ability to provide
 11 mental health services for children:

12 ~~(1)~~(a) through use of available federal and state special revenue and state general fund money;

13 (b) in the least restrictive setting available; and

14 ~~(2)~~(c) in accordance with the state's goal of using a wraparound philosophy of care.

15 (2) The department shall adopt rules establishing the performance standards for providers to qualify for
 16 the pools provided for under this section. The rules must include:

17 (a) the qualifications required for inclusion in a pool, including but not limited to:

18 (i) measurable performance guidelines and standards of service delivery;

19 (ii) demonstrated successful outcomes; and

20 (iii) a commitment to provide alternative plans for in-state care as provided for in subsection (4);

21 (b) the process by which providers must demonstrate outcomes that indicate their ability to meet the
 22 qualifications required for inclusion in a pool;

23 (c) the department's standards for monitoring providers to ensure that a provider that has qualified for
 24 the pool continues to meet the qualification requirements; and

25 (d) the procedures for removing a provider from a pool.

26 (3) A provider who fails to meet the qualification standards or does not demonstrate successful outcomes
 27 must be removed from the pool of qualified providers.

28 (4) (a) The department shall establish a performance-based system for assigning a qualified in-state
 29 provider to review a case involving a high-risk child with multiagency service needs and to propose a plan of care
 30 for providing services in state to the child.

1 (b) The department may not certify a child for placement with an out-of-state provider unless it denies
 2 the plan of care proposed by the in-state provider.

3 (5) The department shall differentiate in both definition and reimbursement rates between therapeutic
 4 living settings that provide a moderate level of service and an intensive level of service."

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 6 **Section 3.** Section 52-2-311, MCA, is amended to read:

7 **"52-2-311. Out-of-state placement monitoring and reporting.** (1) The department shall collect the
 8 following information regarding high-risk children with multiagency service needs:

- 9 (a) the number of children placed out of state;
 10 (b) the reasons each child was placed out of state;
 11 (c) the costs for each child placed out of state;
 12 (d) the efforts the department made to avoid out-of-state placements, including:

13 (i) the number of in-state providers the department contacted about developing service alternatives for
 14 a child in or at risk of being placed in an out-of-state facility;

15 (ii) whether any in-state providers submitted a plan for service alternatives for the child to the department;
 16 and

17 (iii) if a plan for service alternatives was submitted, the reasons the plan was not implemented and the
 18 out-of-state placement was determined to be necessary;

19 (e) the number of children for whom plans for service alternatives were developed, implemented, and
 20 resulted in the return of a child from an out-of-state placement or prevented a child from being placed out of state;
 21 and

22 (f) other planning efforts to prepare for a child's return to the state.

23 (2) For children whose placement is funded in whole or in part by the department, the report shall include
 24 information indicating the department program with which the child is involved.

25 ~~(2)~~(3) On an ongoing basis, the department shall attempt to reduce out-of-state placements.

26 ~~(3)~~(4) The department shall report biannually to the children, families, health, and human services interim
 27 committee concerning the information it has collected under this section and the results of the efforts it has made
 28 to reduce out-of-state placements."

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