

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 631

An Act to amend and reenact § 2.2-5211 of the Code of Virginia, relating to financial and legal responsibility for special education services for certain individuals with disabilities placed across jurisdictional lines.

[H 1047]

Approved April 12, 2004

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-5211 of the Code of Virginia is amended and reenacted as follows:

§ 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 public or private nonresidential or residential services for troubled youths and families.

The purposes of this system of funding are to:

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 youths and families; and
4. Reduce disparity in accessing services and to reduce inadvertent fiscal incentives for serving children 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 5 of this subsection in the purchase of residential and nonresidential services for children. References to funding sources and current placement authority for the targeted populations of children are for the purpose of accounting for the funds in the pool. It is not intended that children be categorized by individual funding streams in order to access services. The target population shall be the following:

1. Children 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 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 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 for whom foster care services, as defined by § 63.2-905, are being provided to prevent foster care placements, and children placed through parental agreements, entrusted to local social service agencies by their parents or guardians or committed to the agencies by any court of competent jurisdiction for purposes of placement in suitable family homes, child-caring institutions, residential facilities or independent living arrangements, as authorized by § 63.2-900;
4. Children 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; and
5. Children 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.

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 identified in subdivisions ~~B. 1.~~ *B 1*, ~~B. 2.~~ *B 2* and ~~B. 3.~~ *B 3* 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 for whom such services will be required and reserve funds from its state pool allocation to meet these needs. Nothing in this section prohibits 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 § 37.1-195, local school division, local social service agency, court service unit, or the Department of Juvenile Justice has referred a child and family to a family assessment and planning team and that team has recommended the proper level of treatment and services needed by that child and family and has determined the child's eligibility for funding for services through the state pool of funds, then the community services board, the local school division, local social services agency, court service unit or Department of Juvenile Justice has met its

fiscal responsibility for that child for the services funded through the pool. ~~Each agency~~ *However, the community services board, the local school division, local social services agency, court service unit or Department of Juvenile Justice shall continue to be responsible for providing services identified in individual family service plans that are within the agency's scope of responsibility and that are funded separately from the state pool.*

Further, in any instance that an individual 18 through 21 years of age, inclusive, who is eligible for funding from the state pool and is properly defined as a school-aged 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 in the Commonwealth and the individual's individualized education program (IEP), as prepared by the placing jurisdiction, 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 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.

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 ~~thirty~~ 30 days of the court's written referral to the community policy and management team. The court shall then consider the recommendations. However, the court may make such other disposition as is authorized or required by law, and services ordered pursuant to such disposition shall qualify for funding as appropriated under this section.