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SENATE BILL NO. 1506

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services
on February 6, 2009)

(Patron Prior to Substitute—Senator Hanger)

A BILL to amend and reenact § 2.2-5211 of the Code of Virginia, relating to the Comprehensive Services Act Program; judicial assignment of services for children.

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, or in a community or facility-based treatment program in accordance with the provisions of subsections B or C of § 16.1-284.1; 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 2 and 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 § 37.2-501, 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

60 funding for services through the state pool of funds, then the community services board, the local school
61 division, local social services agency, court service unit or Department of Juvenile Justice has met its
62 fiscal responsibility for that child for the services funded through the pool. However, the community
63 services board, the local school division, local social services agency, court service unit or Department
64 of Juvenile Justice shall continue to be responsible for providing services identified in individual family
65 service plans that are within the agency's scope of responsibility and that are funded separately from the
66 state pool.

67 Further, in any instance that an individual 18 through 21 years of age, inclusive, who is eligible for
68 funding from the state pool and is properly defined as a school-aged child with disabilities pursuant to
69 § 22.1-213 is placed by a local social services agency that has custody across jurisdictional lines in a
70 group home in the Commonwealth and the individual's individualized education program (IEP), as
71 prepared by the placing jurisdiction, indicates that a private day school placement is the appropriate
72 educational program for such individual, the financial and legal responsibility for the individual's special
73 education services and IEP shall remain, in compliance with the provisions of federal law, Article 2
74 (§ 22.1-213) of Chapter 13 of Title 22.1, and Board of Education regulations, the responsibility of the
75 placing jurisdiction until the individual reaches the age of 21, inclusive, or is no longer eligible for
76 special education services. The financial and legal responsibility for such special education services shall
77 remain with the placing jurisdiction, unless the placing jurisdiction has transitioned all appropriate
78 services with the individual.

79 E. In any matter properly before a court for which state pool funds are to be accessed, the court
80 shall, prior to final disposition, and pursuant to §§ 2.2-5209 and 2.2-5212, refer the matter to the
81 community policy and management team for assessment by a local family assessment and planning team
82 authorized by policies of the community policy and management team for assessment to determine the
83 recommended level of treatment and services needed by the child and family. The family assessment
84 and planning team making the assessment shall make a report of the case or forward a copy of the
85 individual family services plan to the court within 30 days of the court's written referral to the
86 community policy and management team. The court shall ~~then~~ consider the recommendations of the
87 *family assessment and planning team and the community policy and management team. If, prior to a*
88 *final disposition by the court, the court is requested to consider a level of service not identified or*
89 *recommended in the report submitted by the family assessment and planning team, the court shall*
90 *request the community policy and management team to submit a second report characterizing*
91 *comparable levels of service to the requested level of service. However,* Notwithstanding the provisions of
92 *this subsection, the court may make such other* any disposition as is authorized or required by law; ~~and~~
93 ~~services. Services ordered pursuant to such a disposition rendered by the court pursuant to this section~~
94 shall qualify for funding as appropriated under this section.