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1 SENATE BILL NO. 1246

2 Offered January 11, 2017

3 Prefiled January 10, 2017

4 A *BILL to amend and reenact §§ 2.2-5211 and 2.2-5212 of the Code of Virginia, relating to*
5 *Comprehensive Services for At-Risk Youth and Families; special education programs.*

6 Patrons—Stuart; Delegate: Cole

7 Referred to Committee on Education and Health

8 **Be it enacted by the General Assembly of Virginia:**

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

10 2. **§ 2.2-5211. State pool of funds for community policy and management teams.**11 A. There is established a state pool of funds to be allocated to community policy and management
12 teams in accordance with the appropriation act and appropriate state regulations. These funds, as made
13 available by the General Assembly, shall be expended for public or private nonresidential or residential
14 services for troubled youths and families.

15 The purposes of this system of funding are to:

16 1. Place authority for making program and funding decisions at the community level;

17 2. Consolidate categorical agency funding and institute community responsibility for the provision of
18 services;19 3. Provide greater flexibility in the use of funds to purchase services based on the strengths and
20 needs of children, youths, and families; and21 4. Reduce disparity in accessing services and to reduce inadvertent fiscal incentives for serving
22 children and youth according to differing required local match rates for funding streams.23 B. The state pool shall consist of funds that serve the target populations identified in subdivisions 1
24 through 5 of this subsection in the purchase of residential and nonresidential services for children and
25 youth. References to funding sources and current placement authority for the targeted populations of
26 children and youth are for the purpose of accounting for the funds in the pool. It is not intended that
27 children and youth be categorized by individual funding streams in order to access services. The target
28 population shall be the following:29 1. Children and youth placed for purposes of special education in (i) approved private school
30 educational programs, previously funded by the Department of Education through private tuition
31 assistance or (ii) a public school special educational program established and funded jointly by a local
32 governing body and school board pursuant to a Memorandum of Agreement for the purpose of
33 providing special education, related services, or both within a public day program, when the public
34 school special educational program is able to provide services comparable to those of an approved
35 private school special educational program, and the student would require placement in an approved
36 private school special educational program but for the availability of the public school special
37 educational program;38 2. Children and youth with disabilities placed by local social services agencies or the Department of
39 Juvenile Justice in private residential facilities or across jurisdictional lines in private, special education
40 day schools, if the individualized education program indicates such school is the appropriate placement
41 while living in foster homes or child-caring facilities, previously funded by the Department of Education
42 through the Interagency Assistance Fund for Noneducational Placements of Handicapped Children;

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

44 4. Children and youth placed by a juvenile and domestic relations district court, in accordance with
45 the provisions of § 16.1-286, in a private or locally operated public facility or nonresidential program, or
46 in a community or facility-based treatment program in accordance with the provisions of subsections B
47 or C of § 16.1-284.1; and48 5. Children and youth committed to the Department of Juvenile Justice and placed by it in a private
49 home or in a public or private facility in accordance with § 66-14.50 C. The General Assembly and the governing body of each county and city shall annually appropriate
51 such sums of money as shall be sufficient to (i) provide special education services and foster care
52 services for children and youth identified in subdivisions B 1, B 2, and B 3 and (ii) meet relevant
53 federal mandates for the provision of these services. The community policy and management team shall
54 anticipate to the best of its ability the number of children and youth for whom such services will be
55 required and reserve funds from its state pool allocation to meet these needs. Nothing in this section
56 prohibits local governments from requiring parental or legal financial contributions, where not
57 required by law.

INTRODUCED

SB1246

59 specifically prohibited by federal or state law or regulation, utilizing a standard sliding fee scale based
60 upon ability to pay, as provided in the appropriation act.

61 D. When a community services board established pursuant to § 37.2-501, local school division, local
62 social service agency, court service unit, or the Department of Juvenile Justice has referred a child and
63 family to a family assessment and planning team and that team has recommended the proper level of
64 treatment and services needed by that child and family and has determined the child's eligibility for
65 funding for services through the state pool of funds, then the community services board, the local school
66 division, local social services agency, court service unit or Department of Juvenile Justice has met its
67 fiscal responsibility for that child for the services funded through the pool. However, the community
68 services board, the local school division, local social services agency, court service unit or Department
69 of Juvenile Justice shall continue to be responsible for providing services identified in individual family
70 service plans that are within the agency's scope of responsibility and that are funded separately from the
71 state pool.

72 Further, in any instance that an individual 18 through 21 years of age, inclusive, who is eligible for
73 funding from the state pool and is properly defined as a school-aged child with disabilities pursuant to
74 § 22.1-213 is placed by a local social services agency that has custody across jurisdictional lines in a
75 group home in the Commonwealth and the individual's individualized education program (IEP), as
76 prepared by the placing jurisdiction, indicates that a private day school placement is the appropriate
77 educational program for such individual, the financial and legal responsibility for the individual's special
78 education services and IEP shall remain, in compliance with the provisions of federal law, Article 2
79 (§ 22.1-213) of Chapter 13 of Title 22.1, and Board of Education regulations, the responsibility of the
80 placing jurisdiction until the individual reaches the age of 21, inclusive, or is no longer eligible for
81 special education services. The financial and legal responsibility for such special education services shall
82 remain with the placing jurisdiction, unless the placing jurisdiction has transitioned all appropriate
83 services with the individual.

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

100 **§ 2.2-5212. Eligibility for state pool of funds.**

101 A. In order to be eligible for funding for services through the state pool of funds, a youth, or family
102 with a child, shall meet one or more of the criteria specified in subdivisions 1 through 4 and shall be
103 determined through the use of a uniform assessment instrument and process and by policies of the
104 community policy and management team to have access to these funds.

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

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

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

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

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

117 3. The child or youth requires placement for purposes of special education in (i) approved private
118 school educational programs or (ii) a public school special educational program established and funded
119 jointly by a local governing body and school board pursuant to a Memorandum of Agreement for the
120 purpose of providing special education, related services, or both within a public day program, when the

INTRODUCED

SB1246

3 of 3

121 *public school special educational program is able to provide services comparable to those of an
122 approved private school special educational program, and the student would require placement in an
123 approved private school special educational program but for the availability of the public school special
124 educational program.*

125 4. The child or youth requires foster care services as defined in § 63.2-905.

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

130 **2. That the provisions of this act shall expire on July 1, 2020.**