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## HOUSE BILL NO. 2289

Offered January 15, 2021

A BILL to amend and reenact §§ 2.2-5211 and 2.2-5212 of the Code of Virginia, relating to Children's Services Act; eligibility for state pool of funds.

Patron—Austin

Referred to Committee on Health, Welfare and Institutions

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

**1. That §§ 2.2-5211 and 2.2-5212 of the Code of Virginia are 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 children, youths, and families; and
4. Reduce disparity in accessing services and to reduce inadvertent fiscal incentives for serving children and youth 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 and youth. References to funding sources and current placement authority for the targeted populations of children and youth are for the purpose of accounting for the funds in the pool. It is not intended that children and youth be categorized by individual funding streams in order to access services. The target population shall be the following:

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

6. Any child or youth who was previously placed pursuant to subdivision 1 in an approved private school educational program for at least six months who will receive transitional services in a public school setting for no longer than 12 months. Transitional services may include adequate staffing to meet the needs of the child or youth, training or professional development to support any child or youth with a significant disability or intensive support needs, an environment that is specific to the child or youth, and individualized programming for the child or youth, such as speech therapy, occupational therapy, behavioral health services, and applied behavior analysis. In order to provide the best transition for children and youth receiving transitional services, local agencies may contract with a private school education program provider in the public school; and

7. Any child or youth whose individualized education program team has determined that his placement in a private special education day school, residential program, or other out-of-school placement could be prevented by his receipt of specialized or intensive services and supports delivered in the public school setting, if such services and supports are estimated to have an annual cost that is more than three times the average annual cost of educating in a public school setting a student who

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59 *does not require special education services and supports.*

60 C. The General Assembly and the governing body of each county and city shall annually appropriate  
61 such sums of money as shall be sufficient to (i) provide special education services and foster care  
62 services for children and youth identified in subdivisions B 1, B 2, and B 3 and (ii) meet relevant  
63 federal mandates for the provision of these services. The community policy and management team shall  
64 anticipate to the best of its ability the number of children and youth for whom such services will be  
65 required and reserve funds from its state pool allocation to meet these needs. Nothing in this section  
66 prohibits local governments from requiring parental or legal financial contributions, where not  
67 specifically prohibited by federal or state law or regulation, utilizing a standard sliding fee scale based  
68 upon ability to pay, as provided in the appropriation act.

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

80 Further, in any instance that an individual 18 through 21 years of age, inclusive, who is eligible for  
81 funding from the state pool and is properly defined as a school-aged child with disabilities pursuant to  
82 § 22.1-213 is placed by a local social services agency that has custody across jurisdictional lines in a  
83 group home in the Commonwealth and the individual's individualized education program (IEP), as  
84 prepared by the placing jurisdiction, indicates that a private day school placement is the appropriate  
85 educational program for such individual, the financial and legal responsibility for the individual's special  
86 education services and IEP shall remain, in compliance with the provisions of federal law, Article 2  
87 (§ 22.1-213) of Chapter 13 of Title 22.1, and Board of Education regulations, the responsibility of the  
88 placing jurisdiction until the individual reaches the age of 21, inclusive, or is no longer eligible for  
89 special education services. The financial and legal responsibility for such special education services shall  
90 remain with the placing jurisdiction, unless the placing jurisdiction has transitioned all appropriate  
91 services with the individual.

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

108 **§ 2.2-5212. Eligibility for state pool of funds.**

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

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

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

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

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

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

125 3. The child or youth requires placement for purposes of special education in *an* approved private  
126 school educational ~~programs~~ *program, transitional services as set forth in subdivision B 6 of § 2.2-5211,*  
127 *or placement for purposes of special education in a public school setting as set forth in subdivision B 7*  
128 *of § 2.2-5211.*

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

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