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## SENATE BILL NO. 1114

Offered January 13, 2021

Prefiled December 21, 2020

*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.*

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Patron—Peake

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Referred to Committee on Education and Health

**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. *Nothing herein shall prohibit the use of such funds for services that are provided in a public school setting.* 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 *or placed for purposes of special education in approved public school educational programs;*
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.

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 and youth 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 and youth 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

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59 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 consider the recommendations of the family  
87 assessment and planning team and the community policy and management team. If, prior to a final  
88 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. Notwithstanding the provisions of this  
92 subsection, the court may make any disposition as is authorized or required by law. Services ordered  
93 pursuant to a disposition rendered by the court pursuant to this section shall qualify for funding as  
94 appropriated under this section.

95 **§ 2.2-5212. Eligibility for state pool of funds.**

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

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

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

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

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

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

112 3. The child or youth requires placement for purposes of special education in approved private *or*  
113 *public* school educational programs.

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

115 B. *Nothing herein shall prohibit the use of such state pool of funds for services that are provided in*  
116 *the public school setting.*

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