CHAPTER 343
HB 1573-FN - FINAL VERSION

22Feb2024... 0427h
11Apr2024... 1309h
11Apr2024... 1472h
13Jun2024... 2290CofC
13Jun2024... 2372EBA

2024 SESSION

24-2149
05/10

HOUSE BILL ***1573-FN***

AN ACT making an appropriation to the department of health and human services to enhance oversight of children in residential placements.

SPONSORS: Rep. M. Pearson, Rock. 34; Rep. J. Nelson, Rock. 13; Rep. Panek, Hills. 1; Rep. Seidel, Hills. 29; Rep. Petrigno, Hills. 43; Rep. Gregg, Hills. 7; Sen. Birdsell, Dist 19; Sen. Innis, Dist 7; Sen. Bradley, Dist 3

COMMITTEE: Children and Family Law

AMENDED ANALYSIS

This bill requires court-ordered residential treatment programs for children to be licensed and certified by the department of health and human services. The bill directs the department to make monitoring visits and ensure compliance with certification criteria. The bill makes an appropriation to the department of health and human services for this purpose and requires the department to submit a report regarding implementation.

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Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Four

AN ACT making an appropriation to the department of health and human services to enhance oversight of children in residential placements.

Be it Enacted by the Senate and House of Representatives in General Court convened:

343:1 Statement of Purpose and Findings. The general court makes the following findings regarding children in state care:

I. Children in the care of the state have fundamental rights, as recognized by RSA 170-G:21.

II. When a child is placed under the care and custody of the state pursuant to RSA 169-B, RSA 169-C or RSA 169-D, it is the responsibility of the state to ensure that a child receives appropriate housing, nutrition, medical and mental health care, education, and basic standards of care.

III. Children who are removed from their homes must be placed in the least restrictive alternate setting. When removal and placement cannot be avoided, the disruption that the child may experience is minimized, and emotional trauma may be reduced, by placing the child in the most familiar, least restrictive setting. The first alternative considered is placement with a relative or a close friend, “kin” or “fictive kin”, to offer the child some degree of familiarity and continuity. When placement with a relative or a family friend is not possible, the least restrictive placement of choice is placement in a licensed foster home.

IV. Residential facilities are appropriate only for children who cannot safely receive the clinically appropriate treatment in their own home or a community-based alternative; a shortage or lack of foster family homes or community-based resources shall not be an acceptable primary reason for placement in a residential facility. Residential facilities are congregate care placements, are considered the most restrictive settings for receiving treatment, and are generally not appropriate for children under 12 years of age. Therefore, placement in a residential setting is used only as a last alternative for children age 12 and older. Special consideration will be given to children under age 12, if deemed clinically appropriate due to a therapeutic or medical necessity.

V. Placing children in facilities must be viewed as time-limited and only for the purpose of treatment and services. The purpose is to stabilize the child’s behaviors, provide treatment and to prepare him or her for a less restrictive setting. The goal is to facilitate family/caregiver integration or another plan consistent with the agency's policy of permanency planning.

VI. To best meet the needs of the children placed in a residential setting, the department of health and human services (DHHS), in coordination with the office of child advocate (OCA), will expand and enhance certification requirements and the oversight process. In addition to certification, DHHS and

OCA will coordinate to improve caseworker visits with children placed by the state in a residential setting. DHHS and OCA will continue this coordination through regular meetings and coordinated visits.

VII. It shall be the policy of DHHS that any placement of a child outside of New England shall require the approval of the division for children youth and families' director prior to that placement, with specific findings of the need for that placement.

343:2 Appropriations; Department of Health and Human Services.

The sum of $1,000,000 for the fiscal year ending June 30, 2025, is hereby appropriated to the department of health and human services for personnel and travel for the purpose of enhancing oversight of certification and quality assurance of residential facilities where New Hampshire children are, or will be, placed, as provided in the provisions of this act. This appropriation shall be nonlapsing. The governor is authorized to draw a warrant for said sum out of any money in the treasury not otherwise appropriated.

343:3 Oversight of Children in Residential Placements; Reporting Requirement. The commissioner of the department of health and human services shall submit 3 quarterly reports to the speaker of the house of representatives, the president of the senate, the chairpersons of the house and senate fiscal committees, the oversight committee on health and human services, and the office of the child advocate regarding implementation of this act and state oversight of children in residential placements. The reporting period shall begin July 1, 2024, and reports shall be filed October 1, 2024, January 1, 2025, and April 1, 2025. Each report shall describe in detail, for the quarter:

I. How the department has spent the funds appropriated in section 2 of this act, by expenditure category, such as staffing (by position type) and travel expenses, both in-state and out-of-state.

II. The number of children visited, both in-state and out-of-state.

III. The number of facilities visited, both in-state and out-of-state.

IV. The number of children in placements outside of New England and whether the director of the division for children, youth, and families approved any new placements outside of New England during the last quarter.

V. Actions, policies, and practices undertaken to expand and enhance certification requirements and the oversight of residential placements.

VI. Coordination between the department and the office of the child advocate to improve caseworker visits with children placed by the state in residential settings, including through regular meetings and coordinated visits.

VII. Any additional information regarding implementation and assessment of the policies in section 1 regarding oversight of children in residential placements.

343:4 New Section; Court Ordered Placements; Residential Treatment Programs; Certification Required. Amend RSA 169-F by inserting after section 4 the following new section:

169-F:5 Residential Treatment Programs; Certification Required.

I. No child shall be placed by the department in a residential treatment program, including a psychiatric residential treatment program, unless the program has been licensed in accordance with RSA 170-E or the laws of the state in which they operate, and certified by the department under this chapter.

Any program not certified by the department shall not be eligible to receive state funds or federal funds disbursed by the state of New Hampshire.

II. On or before January 2, 2025, the department shall establish a certification team, responsible for the certification, recertification, and oversight of all residential treatment programs utilized by the department, and certified for placements and payment by the department. Such assessments shall include an in-person visit of the facility and review of all appropriate records and certification criteria. The team shall give priority to all residential treatment programs where children are currently placed on the effective date of this section.

III. The team shall develop a standard operating procedure and form for assessment of the programs to be completed during each in-person visit, in consultation with the office of the child advocate.

IV. The department shall assess and certify every in-state and out-of-state program including residential treatment programs and psychiatric residential treatment programs prior to entering into an agreement for payment, and prior to the placement of any child in that facility. To be certified by the department, the program shall demonstrate compliance with staff training and program requirements and offer an appropriate therapeutic milieu and culture centered in trauma-informed care, in accordance with standards adopted by the department, in consultation of the office of the child advocate.

V. The department shall make monitoring visits at least twice per year, including at least one unannounced visit, to all facilities where New Hampshire children are currently placed by the state in residential treatment. The department shall continue to make annual certification or technical assistance visits to all certified residential placement facilities; if a child is being placed at a residential facility that did not currently have a New Hampshire child placed, the department shall make a visit prior to the placement of that child unless a department visit has occurred within the past 120 days. Clear and comprehensive records shall be maintained by the department on each facility showing the dates and findings of each such visit. Such records shall be available to the facility and provided to the office of the child advocate, as well as included in the paperwork for the certification and/or re-certification process. If the facility is found not to be in compliance with the statute, the rules adopted by the commissioner, or the contract, if applicable, a corrective action plan shall be submitted to the department, and the department shall notify the licensing agency of that facility and the office of the child advocate. Failure to submit an acceptable plan or a failure to take the necessary corrective actions shall result in the immediate removal of all New Hampshire children from that facility, and/or revocation of the certification.

VI. Any placement of a child outside of New England shall require the approval of the division for children youth and families' director prior to placement, with specific findings regarding the need for such placement.

343:5 Reallocation of Monies Saved. Any monies saved by the department of health and human services, including the division for children, youth and families and the bureau of children's behavioral health, in preventing the out-of-home placement of children pursuant to this act shall be used by the department to provide services pursuant to RSA 135-F, the system of care for children's mental health, and any other community-based intervention services.

343:6 Contingency. If SB 417 of the 2024 general legislative session becomes law, RSA 169-F:5 as inserted by section 4 of this act shall be renumbered to read as RSA 169-F:9.

343:7 Effective Date. This act shall take effect July 1, 2024.

Approved: August 02, 2024
Effective Date: July 01, 2024