

## 1 \ HOUSE BILL NO. 565

2 INTRODUCED BY P. NOONAN

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING REQUIREMENTS FOR PROVIDING CHILDREN WITH  
5 MENTAL HEALTH NEEDS WITH IN-STATE SERVICE ALTERNATIVES TO OUT-OF-STATE PLACEMENT;  
6 REVISING DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES PROCEDURES FOR DETERMINING  
7 PLACEMENT OF CHILDREN IN OUT-OF-STATE SERVICES; ~~REQUIRING THE DEPARTMENT TO~~  
8 ~~DIFFERENTIATE BETWEEN MODERATE AND INTENSIVE NEEDS FOR HIGH-RISK CHILDREN; EXPANDING~~  
9 REVISING REPORTING REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING  
10 SECTIONS 52-2-308, 52-2-310, AND 52-2-311, MCA."

11  
12 WHEREAS, the 1993 Montana Legislature recognized that some Montana children have mental health  
13 and other needs that require services from multiple agencies; and

14 WHEREAS, the 1993 Legislature expressed a desire to provide services to these children in their homes  
15 or communities whenever possible and to use out-of-state providers as a last resort; and

16 WHEREAS, subsequent legislatures have strengthened the policy first established in 1993 by  
17 encouraging development of an array of in-state services so that children placed out of state may return home  
18 and children in the state are able to remain in their homes, community, or the state; and

19 WHEREAS, the 2009 Legislature required the Department of Public Health and Human Services to  
20 establish an in-state pool of providers and protocol to give these children opportunities for services in their homes  
21 or communities from this pool of providers as a last resort before out-of-state placements; and

22 WHEREAS, the 2009 Legislature required the Department of Public Health and Human Services to report  
23 to the Legislature on the number of out-of-state placements and the attempts to continue to provide services in  
24 Montana; and

25 WHEREAS, information from the Department of Public Health and Human Services indicates that  
26 out-of-state placements of children HAVE DECREASED BY 40% IN THE LAST 4 YEARS BUT STILL continue.

27

28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

29

30 **Section 1.** Section 52-2-308, MCA, is amended to read:

1           **"52-2-308. Rulemaking.** The department shall adopt rules necessary to implement ~~52-2-301 through~~  
 2 ~~52-2-304 and 52-2-309~~ this part. The rules must be adopted in cooperation with the committee established in  
 3 52-2-303."  
 4

5           **Section 2.** Section 52-2-310, MCA, is amended to read:

6           **"52-2-310. Development and use of in-state pool of providers qualified provider pools.** (1) In order  
 7 to accomplish the goals of 52-2-301, the department shall establish a pool of qualified in-state providers ~~and a~~  
 8 ~~pool of qualified out-of-state providers~~ identified as willing and able to meet the significant needs of high-risk  
 9 children with multiagency service needs who are currently placed or may be placed out of state. ~~The~~ USING  
 10 EXISTING STAFF RESOURCES, THE department shall design AND IMPLEMENT a process in which licensed providers  
 11 qualify for ~~the~~ a pool by demonstrating their ability to provide mental health services for children:

12           (1)~~(a)~~ through use of available federal and state special revenue and state general fund money;

13           ~~(b) in the least restrictive setting available; and~~

14           ~~(2)(c)~~ in accordance with the state's goal of using a wraparound philosophy of care AND PLANNING  
 15 PROCESS; AND

16           (D) USING CRITERIA ESTABLISHED BY THE DEPARTMENT TO ADDRESS THE SPECIALIZED NEEDS OF HIGH-RISK  
 17 CHILDREN WITH MULTIAGENCY SERVICE NEEDS.

18           ~~———— (2) The department shall adopt rules establishing the performance standards for providers to qualify for~~  
 19 ~~the pools provided for under this section. The rules must include:~~

20           ~~———— (a) the qualifications required for inclusion in a pool, including but not limited to:~~

21           ~~———— (i) measurable performance guidelines and standards of service delivery;~~

22           ~~———— (ii) demonstrated successful outcomes; and~~

23           ~~———— (iii) a commitment to provide alternative plans for in-state care as provided for in subsection (4);~~

24           ~~———— (b) the process by which providers must demonstrate outcomes that indicate their ability to meet the~~  
 25 ~~qualifications required for inclusion in a pool;~~

26           ~~———— (c) the department's standards for monitoring providers to ensure that a provider that has qualified for~~  
 27 ~~the pool continues to meet the qualification requirements; and~~

28           ~~———— (d) the procedures for removing a provider from a pool.~~

29           ~~———— (3) A provider who fails to meet the qualification standards or does not demonstrate successful outcomes~~  
 30 ~~must be removed from the pool of qualified providers.~~

1 ~~(4)(2) (a) The department shall establish a performance-based system for assigning a~~ ALLOW ANY WILLING  
 2 ~~AND qualified in-state provider to review a case involving a high-risk child with multiagency service needs and to~~  
 3 ~~propose a plan of care for providing services in state to the child.~~

4 ~~(b) The~~ PRIOR TO CONTRACTING WITH A PROVIDER FOR THE DELIVERY OF IN-STATE SERVICES, THE DEPARTMENT  
 5 MUST DETERMINE THAT THE PLAN OF CARE SUBMITTED BY THE IN-STATE PROVIDER IS BOTH COST-EFFECTIVE AND IN THE  
 6 BEST INTERESTS OF THE CHILD.

7 ~~(c) IF A QUALIFIED IN-STATE PROVIDER PROPOSES A PLAN OF CARE FOR PROVIDING IN-STATE SERVICES TO THE~~  
 8 ~~CHILD, THE~~ department may not certify a child for placement with an out-of-state provider unless it denies the plan  
 9 ~~of care proposed by the in-state provider.~~

10 ~~———— (5) The department shall differentiate in both definition and reimbursement rates between therapeutic~~  
 11 ~~living settings that provide a moderate level of service and an intensive level of service."~~

12

13 **Section 3.** Section 52-2-311, MCA, is amended to read:

14 **"52-2-311. Out-of-state placement monitoring and reporting.** (1) The department shall collect the  
 15 following information regarding high-risk children with multiagency service needs:

16 (a) the number of children placed out of state;

17 (b) the reasons each child was placed out of state;

18 (c) the costs for each child placed out of state;

19 (d) the ~~efforts the department made~~ PROCESS USED to avoid out-of-state placements, including:

20 ~~———— (i) the number of in-state providers the department contacted about developing service alternatives for~~  
 21 ~~a child in or at risk of being placed in an out-of-state facility;~~

22 ~~———— (ii) whether any in-state providers submitted a plan for service alternatives for the child to the department;~~

23 and

24 ~~———— (iii) if a plan for service alternatives was submitted, the reasons the plan was not implemented and the~~  
 25 ~~out-of-state placement was determined to be necessary;~~

26 ~~———— (e) the number of children for whom plans for service alternatives were developed, implemented, and~~  
 27 ~~resulted in the return of a child from an out-of-state placement or prevented a child from being placed out of state;~~

28 and

29 ~~———— (f) other planning efforts to prepare for a child's return to the state.; AND~~

30 (E) THE NUMBER OF IN-STATE PROVIDERS PARTICIPATING IN THE POOL.

