

SB 14-FN - AS INTRODUCED

2019 SESSION

19-1051

05/03

SENATE BILL

14-FN

AN ACT

relative to child welfare.

SPONSORS:

Sen. Feltes, Dist 15; Sen. Cavanaugh, Dist 16; Sen. Chandley, Dist 11; Sen. Fuller Clark, Dist 21; Sen. Hennessey, Dist 5; Sen. Kahn, Dist 10; Sen. Reagan, Dist 17; Sen. Watters, Dist 4; Sen. Bradley, Dist 3; Sen. Rosenwald, Dist 13; Rep. Rice, Hills. 37; Rep. Morrison, Rock. 9; Rep. Wallner, Merr. 10; Rep. Nordgren, Graf. 12; Rep. Hennessey, Graf. 1

COMMITTEE:

Health and Human Services

ANALYSIS

This bill:

I. Requires the department of health and human services to establish one or more case management entities as part of the system of care for children's mental health.

II. Requires the department to establish a family support clearinghouse and system of care advisory committee.

III. Expands home and community-based behavioral health services for children to include mobile crisis response and stabilization services.

IV. Defines evidence-based practices for purposes of children's behavioral health services, establishes a resource center for children's behavioral health, and requires department contracts with behavioral health service providers to comply with evidence-based practice requirements.

V. Requires certain assessment, discharge, and treatment planning for children in court-ordered placements and requires medical assistance screenings of children involved in the juvenile court system.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to child welfare.

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

1 1 Statement of Findings.

2 I. The general court hereby finds that:

3 (a) The ongoing mental health, substance misuse, and child protection crises have taken
4 a significant toll on New Hampshire's children and families, impacting all child-serving systems and
5 placing increased pressure on the children's behavioral health system;

6 (b) The New Hampshire department of health and human services recently released an
7 Adequacy and Enhancement Assessment of New Hampshire's child welfare system, which called for
8 sweeping reforms including further integration of services with the children's behavioral health
9 system; immediate enhancements to the service array for children with significant emotional,
10 behavioral and mental health needs; and transformation of New Hampshire's child-serving system
11 to one that is based on early intervention, evidence-based services, and accountability for outcomes;

12 (c) Recent changes to child welfare funding at the federal level with the passage of the
13 federal Family First Prevention Services Act also drive the need to transform New Hampshire's
14 child-serving system;

15 (d) The state of New Hampshire faces a significant shortage in its capacity to provide
16 children with early and effective home and community-based services and therefore must rely on
17 expensive, residential and inpatient treatment that drain the state resources;

18 (e) Adoption of interventions that are proven to be effective such as mobile crisis and
19 stabilization services will provide support and treatment to families in crisis and will in many cases
20 avoid costly, restrictive, and often unnecessary institutional care;

21 (f) Increasing access to mobile crisis response and stabilization services for children can
22 also help the state meet its legal obligations under the Early and Periodic Screening, Diagnostic and
23 Treatment ("EPSDT") provisions of the federal Medicaid Act and the integration mandate of the
24 federal Americans with Disabilities Act. EPSDT is a federally mandated robust benefit for Medicaid-
25 eligible children under age 21, designed to address children's health concerns before they become
26 advanced and treatment is more difficult and costlier;

27 II. Therefore, this act directs the department of health and human services to expand home
28 and community-based behavioral health services for children to include mobile crisis response and
29 stabilization services and make the following improvements to the child-serving system as
30 recommended by the Adequacy and Enhancement Assessment and in alignment with the federal
31 Family First Prevention Services Act and EPSDT.

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2 System of Care for Children's Mental Health. Amend RSA 135-F:3, III(e) to read as follows:

(e) Services that are family-driven, youth-guided, community-based, ***trauma-informed***, and culturally and linguistically competent.

3 New Paragraph; System of Care for Children's Mental Health; Duties of the Department of Health and Human Services; Care Management Entities. Amend RSA 135-F:4 by inserting after paragraph II the following new paragraph:

III. Establish and maintain at least one care management entity to oversee and coordinate the care for children with complex behavioral health needs who are at risk for residential, hospital, or corrections placement or involved in multiple service systems. In this section, "care management entity" means an organizational entity that serves as a centralized entity to coordinate all care for youth with complex behavioral health challenges who are involved in multiple systems and their families.

(a) The care management entity shall oversee and manage residential treatment, psychiatric hospitalization, and the development of a continuum of community-based services and supports for children and youth with more complex needs.

(b) Beginning January 1, 2020, the care management entity shall coordinate behavioral health services in no less than 25 percent of cases involving referrals for residential treatment. Beginning January 1, 2021, the care management entity shall coordinate services in no less than 50 percent of such cases, and, beginning January 1, 2022 and thereafter, the care management entity shall coordinate services in no less than 75 percent of such cases.

4 New Sections; Family Support Clearinghouse; System of Care Advisory Committee. Amend RSA 135-F by inserting after section 7 the following new sections:

135-F:8 Family Support Clearinghouse.

I. The department of health and human services shall establish and maintain an information clearinghouse for families seeking information regarding children's behavioral health services. The clearinghouse functions required by this section may be assigned to an entity that has responsibilities in addition to those required by this section.

II. The information provided shall be available on the department of health and human services website and shall include:

(a) Access to mobile crisis and stabilization services.

(b) Insurance coverage and other reimbursement sources.

(c) The results of assessments of the quality of service providers and whether they utilize evidence-based practices.

(d) Referral information for legal service organizations.

(e) Referral information, including links to websites and contact telephone numbers, for behavioral health service providers, organized by region.

(f) Advice and guidance regarding family navigation of the behavioral health system.

135-F:9 System of Care Advisory Committee. The department of education and the department

of health and human services shall create a system of care advisory committee to improve the well-being of children and families; promote coordination across state agencies; identify cost-savings, opportunities to increase efficiency, and improvements to the service array and service delivery system and effectiveness; and assist and advise the commissioners of the department of education and the department of health and human services on the system of care principles and values and implementation of RSA 135-F. The committee shall include representation of child-serving public and private agencies, including experts in education, community-based and facility-based behavioral health services, and effective administration of private and public educational and health services.

5 Home and Community-Based Behavioral Health Services for Children; Mobile Crisis Response and Stabilization Services Included. Amend RSA 167:3-1 to read as follows:

167:3-1 Home and Community-Based Behavioral Health Services for Children.

I. The department shall establish a Medicaid home and community-based behavioral health services program for children with severe emotional disturbances whose service needs cannot be met through traditional behavioral health services. The department may establish such services through a state plan amendment as provided in Section 1915(i) of the Social Security Act or a waiver under other provisions of the Act. If the department proceeds with a waiver, it shall not limit the geographic availability of services.

II. Such services shall include the following services or their functional equivalent:

- (a) Wraparound care coordination.
- (b) Wraparound participation.
- (c) In-home respite care.
- (d) Out-of-home respite care.
- (e) Customizable goods and services.
- (f) Family peer support.
- (g) Youth peer support.

(h) Mobile crisis response and stabilization services.

(1) Mobile crisis response and stabilization services for children under 21 shall be provided and delivered using system of care values and principles in compliance with RSA 135-F.

(2) The department shall contract with one or more third-party administrators to ensure that all children in the state under 21 years of age have access to mobile crisis response and stabilization services, that such services are available with a response time of no more than one hour, and that such services are available in every part of the state.

(3) The department shall require the third-party administrator to develop a performance measurement system for monitoring quality and access to mobile crisis response and stabilization services.

(4) All providers of mobile crisis response and stabilization services shall coordinate with the child's wraparound care coordinator, primary care physician, and any other care management program or other behavioral health providers providing services to the youth throughout the delivery of the service.

6 Delinquent Children; Arraignment. Amend RSA 169-B:13, I(f)(1)(C) to read as follows:

(C) Identified as eligible for special education services[-]; **or**

(D) Previously referred to a care management entity as defined in RSA 135-F:4, III.

7 New Paragraph; Delinquent Children; Court Referrals; Referral to Care Management Entity. Amend RSA 169-B:13 by inserting after paragraph II the following new paragraph:

II-a. The court may, at the arraignment or at any time thereafter, with the consent of the minor and the minor's family, refer the minor and family to a care management entity, as defined in RSA 135-F:4, III, for evaluation and/or behavioral health services to be coordinated and supervised by that entity.

8 New Subparagraph; Delinquent Children; Disposition; Referral to Care Management Entity. Amend RSA 169-B:19, I by inserting after subparagraph (k) the following new subparagraph:

(l) With the consent of the minor and the minor's family, refer the minor and family to a care management entity, as defined in RSA 135-F:4, III, for behavioral health services to be coordinated and supervised by that entity. Such referral may be accompanied by one or more other dispositions in this section, if otherwise authorized and appropriate.

9 New Paragraph; Delinquent Children; Dispositional Hearing. Amend RSA 169-B:19 by inserting after paragraph I the following new paragraph:

I-a. In the case of a child for whom behavioral health services are being coordinated by a care management entity as defined in RSA 135-F:4, III, the court shall solicit and consider treatment and service recommendations from the entity. If the court orders a disposition which is not consistent with the care management entity's recommendations, it shall make written findings regarding the basis for the disposition and the reasons for its determination not to follow the recommendations.

10 Children in Need of Services; Initial Appearance. Amend RSA 169-D:11, II(e)(2) and (3) to read as follows:

(2) Determined to have a mental illness, emotional or behavioral disorder, or another disorder that may impede the child's decision-making abilities; ~~or~~

(3) Identified as eligible for special education services[-]; **or**

(4) Previously referred to a care management entity as defined in RSA 135-F:4, III.

11 New Paragraph; Children in Need of Services; Initial Appearance; Referral to Case Management Entity. Amend RSA 169-D:11 by inserting after paragraph II-a the following new

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1 paragraph:

2 II-b. The court may, at the initial appearance or at any time thereafter, with the consent of
3 the minor and the minor's family, refer the minor and family to a care management entity as
4 defined in RSA 135-F:4 III for evaluation and/or behavioral health services to be coordinated and
5 supervised by that entity.

6 12 New Paragraph; Children in Need of Services; Dispositional Hearing; Recommendations of
7 Care Management Entity. Amend RSA 169-D:17 by inserting after paragraph I the following new
8 paragraph:

9 I-a. In the case of a child for whom behavioral health services are being coordinated by a
10 care management entity as defined in RSA 135-F:4, the court shall solicit and consider treatment
11 and service recommendations from the entity. If the court orders a disposition which is not
12 consistent with the entity's recommendations, it shall make written findings regarding the basis for
13 the disposition and the reasons for its determination not to follow the recommendations.

14 13 New Paragraph; Children in Need of Services; Dispositional Hearing; Referral to Care
15 Management Entity. Amend RSA 169-D:17 by inserting after paragraph III the following new
16 paragraph:

17 III-a. In addition to any other disposition, the court may, with the consent of the minor and
18 the minor's family, refer the minor and family to a care management entity as defined in RSA 135-
19 F:4 III for behavioral health services to be coordinated and supervised by that entity. Such a
20 referral may be accompanied by one or more other dispositions in this section, if otherwise
21 authorized and appropriate.

22 14 New Paragraph; Services for Children Youth and Families; Definition of Evidence-Based
23 Practice. Amend RSA 170-G:1 by inserting after paragraph V the following new paragraph:

24 V-a. "Evidence-based practice" means a practice that has been evaluated using research
25 which utilizes methods that meet high scientific standards. Acceptable methods shall include:

26 (a) Systematic, empirical techniques that draw on observation or experiment.

27 (b) Rigorous data analyses that are adequate to test stated hypotheses and justify
28 general conclusions.

29 (c) Measurements or observational methods that provide reliable and valid data across
30 evaluators and observers, across multiple measurements and observations, and across studies by
31 the same or different investigators.

32 (d) Randomized controlled trials when possible and appropriate.

33 15 New Paragraph; Services for Children, Youth, and Families; Duties of the Department of
34 Health and Human Services. Amend RSA 170-G:4 by inserting after paragraph XX the following
35 new paragraph:

36 XXI. Utilize, to the fullest permissible extent, available public reimbursement for
37 behavioral health and other services provided pursuant to this chapter and RSA 169-B, 169-C, and
38 169-D, in settings including the home, schools, and treatment facilities. Such reimbursement

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1 includes, but is not limited to, the federal Early and Periodic Screening, Diagnosis and Treatment
2 Program under 42 U.S.C. section 1396d.

3 16 New Sections; Services for Children Youth and Families. Amend RSA 170-G by inserting
4 after section 4-a the following new sections:

5 170-G:4-b Evidence-Based Practices.

6 I. On or before July 1, 2020, at least 10 percent of state funds received by the department
7 for children's behavioral health services, whether or not they are subject to this chapter, shall be
8 expended for evidence-based practices. Beginning July 1, 2022, the percentage of state funds
9 expended for evidence-based practices shall be at least 25 percent; and beginning July 1, 2025, the
10 percentage expended for evidence-based practices shall be at least 40 percent.

11 II. The department shall submit a biennial report containing:

12 (a) An assessment of each service provider on which the department expends funds,
13 including but not limited to whether each service provided is an evidence-based practice, and
14 whether the service provider is in compliance with the contract accountability requirements of RSA
15 170-G:4-d.

16 (b) The percentage of state funds the department receives for behavioral health services
17 that is being expended on evidence-based practices.

18 (c) The percentage of federal and other funds the department receives for behavioral
19 health services that is being expended on evidence-based practices.

20 (d) A description of the efforts the department is making to increase the use of evidence-
21 based practices for children's behavioral health and other services.

22 III. The department shall submit the report required under paragraph II no later than
23 January 15 of each odd-numbered year to the governor, the administrative justice of the circuit
24 court, and the house and senate finance committees. The report shall also be posted on the
25 department's website.

26 170-G:4-c Establishment of Resource Center for Children's Behavioral Health. The department
27 shall establish and maintain a resource center for children's behavioral health, which shall:

28 I. Provide technical assistance to the department and to service providers to support the
29 implementation and operation of evidence-based practices, along with the provision of services
30 according to the system of care characteristics described in RSA 135-F:3.

31 II. Provide training on a statewide basis to persons employed in the children's behavioral
32 health system, relating to:

33 (a) The use of evidence-based practices.

34 (b) The analysis of quality assurance protocols to determine whether service providers
35 are utilizing evidence-based practices with fidelity.

36 III. Act as a clearinghouse for information and statewide resources on evidence-based
37 practices for children receiving services pursuant to RSA 169-B, 169-C, 169-D, and 170-G.

38 IV. Facilitate collaboration among state and local agencies and service providers to increase

1 access to such providers.

2 V. Provide support for the assessment of the implementation of evidence-based practices by
3 such state and local agencies.

4 170-G:4-d Content of Provider Contracts.

5 I. All contracts between the department and providers of services under this chapter, or
6 any behavior health service to children, shall include provisions addressing outcome measurement,
7 incentives for the use of evidence-based practices, and accountability for high-quality services.
8 Such provisions shall, at minimum, include the following:

9 (a) Required use of a uniform assessment instrument developed and/or approved by the
10 department pursuant to RSA 170-G:4-e.

11 (b) In the case of providers of services to children pursuant to the dispositional
12 authority of the circuit court under RSA 169-B and 169-D, outcome measurement which includes
13 recidivism as measured by post-service arrests, violations of parole, conditional release, or other
14 conditional liberty, and behavior meeting the definition of a child in need of service under RSA 169-
15 D:2. Contracts with such providers shall also include incentives for recidivism reduction.

16 (c) Reporting to the department changes in assessment results following provision of
17 the contracted service for each child served.

18 II. The department shall include substantially similar requirements in its standards for
19 provider certification and other processes administered by the department to qualify providers to
20 deliver services pursuant to this chapter.

21 170-G:4-e Assessment, Treatment, and Discharge Planning.

22 I. In every case in which a placement outside the home is being considered, the department
23 shall require the completion of a written clinical assessment of the behavioral health and other
24 treatment needs of the child.

25 II. A written treatment plan shall be required upon a child's placement in a residential or
26 other treatment program. The plan shall have definable goals and strategies to achieve those goals
27 and include concrete, outcome-oriented interventions with the objective of restoring, rehabilitating,
28 or maintaining the child's capacity to successfully function in the community and diminish the need
29 for a more intensive level of care.

30 III. The development of a written discharge plan for each child shall begin upon admission
31 to any treatment program, and shall be available to the parents or guardians of the child no later
32 than 10 days following admission to the program. Treatment and discharge plans shall be updated
33 on an ongoing basis as treatment proceeds and a child's condition changes.

34 IV. All assessments conducted pursuant to this section shall include the use of a universal,
35 strengths-based assessment tool which is adopted by the department and used throughout the
36 system of care for children's mental health as defined in RSA 135-F.

37 V. The assessment of the child's behavioral health and other treatment needs shall be
38 repeated upon discharge from any residential treatment program or commitment pursuant to RSA

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1 169-B:19, I(j).

2 VI. Assessments required by this section may not be conducted by employees of a
3 residential treatment provider or commitment pursuant to RSA 169-B:19, I(j).

4 170-G:4-f Medical Assistance Screening. The department of health and human services shall
5 establish a procedure to assess court-involved children for eligibility for private and public medical
6 insurance, including the medical assistance program under RSA 167. This procedure shall apply to
7 any child who is subject to proceedings under RSA 169-B or 169-D, or receives services pursuant to
8 RSA 169-C. Children who may be eligible and their families shall be provided assistance by the
9 department in making application for such assistance. The circuit court shall make any necessary
10 adjustments to its arraignment and other procedures to facilitate such assessments.

11 17 Establishment of Resource Center for Children's Behavioral Health; RFP Required. On or
12 before January 1, 2020, the department of health and human services shall issue a request for
13 proposals to establish the resource center for children's behavioral health pursuant to RSA 170-G:4-
14 c, as inserted by section 16 of this act, and shall establish the resource center no later than July 1,
15 2020.

16 18 New Paragraph; Release and Discharge from the Youth Services Center. Amend RSA
17 621:19 by inserting after paragraph III the following new paragraph:

18 III-a. In every case in which there is a diagnosis or other evidence that a minor at the center
19 may have a serious emotional disturbance or other behavioral health disorder, the center shall, with
20 the consent of the minor and the minor's family, refer the minor to a care management entity, as
21 defined in RSA 135-F:4, III, for evaluation and recommendations for behavioral health services to
22 be coordinated and supervised by that entity before and after discharge from the facility. Discharge
23 plans shall incorporate the recommendations of the care management entity whenever appropriate.
24 In any case where the recommendations of the care management entity are not incorporated into
25 the discharge planning process, the minor, the minor's family, and counsel for the minor shall be
26 notified in writing of the decision and of the basis for the decision.

27 19 Effective Date.

28 I. RSA 170-G:4-b, as inserted by section 16 of this act, shall take effect July 1, 2020.

29 II. RSA 170-G:4-d, as inserted by section 16 of this act, shall take effect January 1, 2020.

30 III. The remainder of this act shall take effect 60 days after its passage.

**SB 14-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to child welfare.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Potential Increase of \$9,146,000+	Potential Increase of \$9,158,000+	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill makes a variety of changes relative to child welfare, the estimated fiscal impacts of which are as follows:

Sections 1 and 2 are not anticipated to have a fiscal impact.

Section 3 requires the Department of Health and Human Services to establish and maintain at least one care management entity (CME) to oversee and coordinate care for children with complex behavioral health needs. The Department states that the language in this section represents an expansion of responsibilities for the existing CME, and would come at a cost of approximately \$1.5 million per year in general funds.

Section 4 requires the Department to establish a family support clearinghouse for families seeking information regarding children's behavioral health services. The information shall be available on a website maintained by the Department. The Department notes that this function could potentially be aligned with mental health access points or hubs included in the ten-year mental health plan. The hubs contemplated by that plan are anticipated to cost \$1.5 million per year. The Department is unable to estimate the cost of a clearinghouse established as a standalone entity independent of the proposed mental health access points.

Section 5 requires the Department to offer mobile crisis response and stabilization services as part of the Medicaid home and community-based behavioral health program for children. According to the Department, these services will not require a waiver as they are already

allowed by the Medicaid State Plan. The Department states that this function could be provided as a component of the \$1.5 million per year cost estimate for mental health access points contemplated by the 10-year Mental Health Plan. Other options include either (1) establishing new mobile crisis teams at an estimated cost of \$1.3 million per team, or (2) integrating services within the three existing mobile crisis teams at a total estimated cost of \$1.5 million (\$0.5 million each) to expand services to children and youth. The Department notes nine teams total would be necessary for statewide coverage to meet the standard of a one-hour driving distance, for a total of \$4.5 million associated with integrating child services with adult service teams. Any general fund estimates do not include billable services associated with the mobile crisis.

Sections 6 - 15 are not expected to have a fiscal impact beyond what is accounted for in the other sections of the bill.

Section 16 requires the establishment of an evidence-based practice (EBP) resource center, to be maintained by the Department. Contracts for similar services range from \$1.0 million per year to \$3.4 million per year. The section further requires the Department to include in all provider contracts relative to services under RSA 170-G incentives for the use of evidence-based practices. A comparative assessment tool currently used by the Department costs approximately \$400,000 per year. Finally, the section requires the Department to conduct an independent assessment for every child in an out-of-home treatment setting. This function could be a part of the aforementioned hub contemplated under the ten-year mental health plan, or it could be treated as a standalone program.

In addition to the cost estimates provided above, the Department states that the bill as a whole will require the addition of three new positions, as current staffing levels in the Bureau for Children's Behavioral Health are inadequate to carry out the requirements contained in the bill. The Department anticipates the following three positions will be needed, at a combined cost of \$246,000 in FY 2020 and \$258,000 in FY 2021:

- One additional position to process CME eligibility
- One additional position to enhance residential treatment and meet the bill's various requirements relative to residential treatment
- One additional position to develop, implement, and oversee the children's mobile crisis, EBP training, standardized assessment components of the bill

The Department emphasizes that the costs identified above are estimates only. For the purposes of providing a single estimate of the bill's various provisions, the following table summarizes the costs identified in the narrative sections above.

Section #	Item	FY 2020	FY 2021
3	Expansion of CME Responsibilities	\$ 1,500,000	\$ 1,500,000
4,	Hubs/Mental Health Access Points	\$ 1,500,000	\$ 1,500,000
5,16	Mobile Crisis and Stabilization Services	\$ 4,500,000	\$ 4,500,000
16	EBP Training and Provider	\$ 1,000,000	\$ 1,000,000
16	Single Standardized Assessment Tool	\$ 400,000	\$ 400,000
Throughout	3 Additional Staff	\$ 246,000	\$ 258,000
	Total:	\$ 9,146,000	\$ 9,158,000

Costs in FY 2022 and beyond are indeterminable.

AGENCIES CONTACTED:

Department of Health and Human Services