



AN ACT CLARIFYING REQUIREMENTS FOR PROVIDING CHILDREN WITH MENTAL HEALTH NEEDS WITH IN-STATE SERVICE ALTERNATIVES TO OUT-OF-STATE PLACEMENT; REVISING DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES PROCEDURES FOR DETERMINING PLACEMENT OF CHILDREN IN OUT-OF-STATE SERVICES; REVISING REPORTING REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 52-2-308, 52-2-310, AND 52-2-311, MCA.

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

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

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

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

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

WHEREAS, information from the Department of Public Health and Human Services indicates that out-of-state placements of children have decreased by 40% in the last 4 years but still continue.

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

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

**"52-2-308. Rulemaking.** The department shall adopt rules necessary to implement ~~52-2-301 through~~

~~52-2-304 and 52-2-309~~ this part. The rules must be adopted in cooperation with the committee established in 52-2-303."

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

**"52-2-310. Development and use of in-state pool of providers qualified provider pools.** (1) In order to accomplish the goals of 52-2-301, the department shall establish a pool of qualified in-state providers identified as willing and able to meet the significant needs of high-risk children with multiagency service needs who are currently placed or may be placed out of state. ~~The~~ Using existing staff resources, the department shall design and implement a process in which licensed providers qualify for ~~the~~ a pool by demonstrating their ability to provide mental health services for children:

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

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

~~(2)(c)~~ (c) in accordance with the state's goal of using a wraparound philosophy of care and planning process; and

(d) using criteria established by the department to address the specialized needs of high-risk children with multiagency service needs.

(2) (a) The department shall allow any willing and qualified in-state provider to review a case involving a high-risk child with multiagency service needs and to propose a plan of care for providing services in state to the child.

(b) Prior to contracting with a provider for the delivery of in-state services, the department must determine that the plan of care submitted by the in-state provider is both cost-effective and in the best interests of the child.

(c) If a qualified in-state provider proposes a plan of care for providing in-state services to the child, the department may not certify a child for placement with an out-of-state provider unless it denies the plan of care proposed by the in-state provider."

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

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

- (a) the number of children placed out of state;
  - (b) the reasons each child was placed out of state;
  - (c) the costs for each child placed out of state;
  - (d) the ~~efforts the department made~~ process used to avoid out-of-state placements, including:
    - ~~(i) the number of in-state providers the department contacted about developing service alternatives for a child in or at risk of being placed in an out-of-state facility;~~
    - ~~(ii) whether any in-state providers submitted a plan for service alternatives for the child to the department;~~and
    - ~~(iii) if a plan for service alternatives was submitted, the reasons the plan was not implemented and the out-of-state placement was determined to be necessary;~~
  - ~~(e) the number of children for whom plans for service alternatives were developed, implemented, and resulted in the return of a child from an out-of-state placement or prevented a child from being placed out of state;~~ and
    - ~~(f) other planning efforts to prepare for a child's return to the state;~~ and
      - (e) the number of in-state providers participating in the pool.
- (2) For children whose placement is funded in whole or in part by medicaid, the report shall include information indicating other department programs with which the child is involved.
- ~~(2)~~(3) On an ongoing basis, the department shall attempt to reduce out-of-state placements.
- ~~(3)~~(4) The department shall report biannually to the children, families, health, and human services interim committee concerning the information it has collected under this section and the results of the efforts it has made to reduce out-of-state placements."

- END -

I hereby certify that the within bill,  
HB 0565, originated in the House.

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Chief Clerk of the House

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2011.

HOUSE BILL NO. 565

INTRODUCED BY P. NOONAN

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