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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 944

02/10/2021 Authored by Hanson, J., The bill was read for the first time and referred to the Committee on Human Services Finance and Policy

1.1 A bill for an act
1.2 relating to human services; modifying residential treatment and children's mental
1.3 health provisions; amending Minnesota Statutes 2020, sections 245.4871,
1.4 subdivision 32; 245.4874, subdivision 1; 245.4882, subdivision 1; 254B.05,
1.5 subdivision 1a; 256B.0945, subdivision 1, by adding subdivisions.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2020, section 245.4871, subdivision 32, is amended to read:

1.8 Subd. 32. Residential treatment. "Residential treatment" means a 24-hour-a-day program
1.9 under the clinical supervision of a mental health professional, in a community residential
1.10 setting other than an acute care hospital or regional treatment center inpatient unit, that must
1.11 be licensed as a residential treatment program for children with emotional disturbances
1.12 under Minnesota Rules, parts 2960.0580 to 2960.0700, or other rules adopted by the
1.13 commissioner or as a psychiatric residential treatment program under section 256B.0941.

1.14 Sec. 2. Minnesota Statutes 2020, section 245.4874, subdivision 1, is amended to read:

1.15 Subdivision 1. Duties of county board. (a) The county board must:

1.16 (1) develop a system of affordable and locally available children's mental health services
1.17 according to sections 245.487 to 245.4889;

1.18 (2) consider the assessment of unmet needs in the county as reported by the local
1.19 children's mental health advisory council under section 245.4875, subdivision 5, paragraph
1.20 (b), clause (3). The county shall provide, upon request of the local children's mental health
1.21 advisory council, readily available data to assist in the determination of unmet needs;

2.1 (3) assure that parents and providers in the county receive information about how to
2.2 gain access to services provided according to sections 245.487 to 245.4889;

2.3 (4) coordinate the delivery of children's mental health services with services provided
2.4 by social services, education, corrections, health, and vocational agencies to improve the
2.5 availability of mental health services to children and the cost-effectiveness of their delivery;

2.6 (5) assure that mental health services delivered according to sections 245.487 to 245.4889
2.7 are delivered expeditiously and are appropriate to the child's diagnostic assessment and
2.8 individual treatment plan;

2.9 (6) provide for case management services to each child with severe emotional disturbance
2.10 according to sections 245.486; 245.4871, subdivisions 3 and 4; and 245.4881, subdivisions
2.11 1, 3, and 5;

2.12 ~~(7) provide for screening of each child under section 245.4885 upon admission to a~~
2.13 ~~residential treatment facility, acute care hospital inpatient treatment, or informal admission~~
2.14 ~~to a regional treatment center;~~

2.15 ~~(8)~~ (7) prudently administer grants and purchase-of-service contracts that the county
2.16 board determines are necessary to fulfill its responsibilities under sections 245.487 to
2.17 245.4889;

2.18 ~~(9)~~ (8) assure that mental health professionals, mental health practitioners, and case
2.19 managers employed by or under contract to the county to provide mental health services
2.20 are qualified under section 245.4871;

2.21 ~~(10)~~ (9) assure that children's mental health services are coordinated with adult mental
2.22 health services specified in sections 245.461 to 245.486 so that a continuum of mental health
2.23 services is available to serve persons with mental illness, regardless of the person's age;

2.24 ~~(11)~~ (10) assure that culturally competent mental health consultants are used as necessary
2.25 to assist the county board in assessing and providing appropriate treatment for children of
2.26 cultural or racial minority heritage; and

2.27 ~~(12)~~ (11) consistent with section 245.486, arrange for or provide a children's mental
2.28 health screening for:

2.29 (i) a child receiving child protective services;

2.30 (ii) a child in out-of-home placement;

2.31 (iii) a child for whom parental rights have been terminated;

2.32 (iv) a child found to be delinquent; or

3.1 (v) a child found to have committed a juvenile petty offense for the third or subsequent
3.2 time.

3.3 A children's mental health screening is not required when a screening or diagnostic
3.4 assessment has been performed within the previous 180 days, or the child is currently under
3.5 the care of a mental health professional.

3.6 (b) When a child is receiving protective services or is in out-of-home placement, the
3.7 court or county agency must notify a parent or guardian whose parental rights have not been
3.8 terminated of the potential mental health screening and the option to prevent the screening
3.9 by notifying the court or county agency in writing.

3.10 (c) When a child is found to be delinquent or a child is found to have committed a
3.11 juvenile petty offense for the third or subsequent time, the court or county agency must
3.12 obtain written informed consent from the parent or legal guardian before a screening is
3.13 conducted unless the court, notwithstanding the parent's failure to consent, determines that
3.14 the screening is in the child's best interest.

3.15 (d) The screening shall be conducted with a screening instrument approved by the
3.16 commissioner of human services according to criteria that are updated and issued annually
3.17 to ensure that approved screening instruments are valid and useful for child welfare and
3.18 juvenile justice populations. Screenings shall be conducted by a mental health practitioner
3.19 as defined in section 245.4871, subdivision 26, or a probation officer or local social services
3.20 agency staff person who is trained in the use of the screening instrument. Training in the
3.21 use of the instrument shall include:

3.22 (1) training in the administration of the instrument;

3.23 (2) the interpretation of its validity given the child's current circumstances;

3.24 (3) the state and federal data practices laws and confidentiality standards;

3.25 (4) the parental consent requirement; and

3.26 (5) providing respect for families and cultural values.

3.27 If the screen indicates a need for assessment, the child's family, or if the family lacks
3.28 mental health insurance, the local social services agency, in consultation with the child's
3.29 family, shall have conducted a diagnostic assessment, including a functional assessment.
3.30 The administration of the screening shall safeguard the privacy of children receiving the
3.31 screening and their families and shall comply with the Minnesota Government Data Practices
3.32 Act, chapter 13, and the federal Health Insurance Portability and Accountability Act of

4.1 1996, Public Law 104-191. Screening results shall be considered private data and the
4.2 commissioner shall not collect individual screening results.

4.3 (e) When the county board refers clients to providers of children's therapeutic services
4.4 and supports under section 256B.0943, the county board must clearly identify the desired
4.5 services components not covered under section 256B.0943 and identify the reimbursement
4.6 source for those requested services, the method of payment, and the payment rate to the
4.7 provider.

4.8 Sec. 3. Minnesota Statutes 2020, section 245.4882, subdivision 1, is amended to read:

4.9 Subdivision 1. **Availability of residential treatment services.** County boards must
4.10 provide or contract for enough residential treatment services to meet the needs of each child
4.11 with severe emotional disturbance residing in the county and needing this level of care.
4.12 Length of stay is based on the child's residential treatment need ~~and shall be subject to the~~
4.13 ~~six-month review process established in section 260C.203, and for children in voluntary~~
4.14 ~~placement for treatment, the court review process in section 260D.06.~~ Services must be
4.15 appropriate to the child's age and treatment needs and must be made available as close to
4.16 the county as possible. Residential treatment must be designed to:

4.17 (1) help the child improve family living and social interaction skills;

4.18 (2) help the child gain the necessary skills to return to the community;

4.19 (3) stabilize crisis admissions; and

4.20 (4) work with families throughout the placement to improve the ability of the families
4.21 to care for children with severe emotional disturbance in the home.

4.22 Sec. 4. Minnesota Statutes 2020, section 254B.05, subdivision 1a, is amended to read:

4.23 Subd. 1a. **Room and board provider requirements.** (a) Effective January 1, 2000,
4.24 vendors of room and board are eligible for chemical dependency fund payment if the vendor:

4.25 (1) has rules prohibiting residents bringing chemicals into the facility or using chemicals
4.26 while residing in the facility and provide consequences for infractions of those rules;

4.27 (2) is determined to meet applicable health and safety requirements;

4.28 (3) is not a jail or prison;

4.29 (4) is not concurrently receiving funds under chapter 256I for the recipient;

4.30 (5) admits individuals who are 18 years of age or older;

5.1 (6) is registered as a board and lodging or lodging establishment according to section
5.2 157.17;

5.3 (7) has awake staff on site 24 hours per day;

5.4 (8) has staff who are at least 18 years of age and meet the requirements of section
5.5 245G.11, subdivision 1, paragraph (b);

5.6 (9) has emergency behavioral procedures that meet the requirements of section 245G.16;

5.7 (10) meets the requirements of section 245G.08, subdivision 5, if administering
5.8 medications to clients;

5.9 (11) meets the abuse prevention requirements of section 245A.65, including a policy on
5.10 fraternization and the mandatory reporting requirements of section 626.557;

5.11 (12) documents coordination with the treatment provider to ensure compliance with
5.12 section 254B.03, subdivision 2;

5.13 (13) protects client funds and ensures freedom from exploitation by meeting the
5.14 provisions of section 245A.04, subdivision 13;

5.15 (14) has a grievance procedure that meets the requirements of section 245G.15,
5.16 subdivision 2; and

5.17 (15) has sleeping and bathroom facilities for men and women separated by a door that
5.18 is locked, has an alarm, or is supervised by awake staff.

5.19 (b) Programs licensed according to Minnesota Rules, chapter 2960, are exempt from
5.20 paragraph (a), clauses (5) to (15).

5.21 (c) Licensed programs providing intensive residential treatment services or residential
5.22 crisis stabilization services pursuant to section 256B.0622 or 256B.0624 are eligible vendors
5.23 of room and board and are exempt from paragraph (a), clauses (6) to (15).

5.24 (d) Licensed programs providing children's residential mental health treatment under
5.25 Minnesota Rules, chapter 2960, are eligible vendors of room and board and are exempt
5.26 from paragraph (a).

5.27 Sec. 5. Minnesota Statutes 2020, section 256B.0945, subdivision 1, is amended to read:

5.28 Subdivision 1. **Residential services; provider qualifications.** (a) Counties must arrange
5.29 to provide residential services for children with severe emotional disturbance according to
5.30 sections 245.4882, 245.4885, and this section.

6.1 (b) Services must be provided by a facility that is licensed according to section 245.4882
6.2 and administrative rules promulgated thereunder, and under contract with the county.

6.3 (c) Eligible service costs may be claimed for a facility that is located in a state that
6.4 borders Minnesota if:

6.5 (1) the facility is the closest facility to the child's home, providing the appropriate level
6.6 of care; and

6.7 (2) the commissioner of human services has completed an inspection of the out-of-state
6.8 program according to the interagency agreement with the commissioner of corrections under
6.9 section 260B.198, subdivision 11, paragraph (b), and the program has been certified by the
6.10 commissioner of corrections under section 260B.198, subdivision 11, paragraph (a), to
6.11 substantially meet the standards applicable to children's residential mental health treatment
6.12 programs under Minnesota Rules, chapter 2960. Nothing in this section requires the
6.13 commissioner of human services to enforce the background study requirements under chapter
6.14 245C or the requirements related to prevention and investigation of alleged maltreatment
6.15 under section 626.557 or chapter 260E. Complaints received by the commissioner of human
6.16 services must be referred to the out-of-state licensing authority for possible follow-up.

6.17 (d) Notwithstanding paragraph (b), eligible service costs may be claimed for an
6.18 out-of-state inpatient treatment facility if:

6.19 (1) the facility specializes in providing mental health services to children who are deaf,
6.20 deafblind, or hard-of-hearing and who use American Sign Language as their first language;

6.21 (2) the facility is licensed by the state in which it is located; and

6.22 (3) the state in which the facility is located is a member state of the Interstate Compact
6.23 on Mental Health.

6.24 (e) While a child is in residential treatment, the child's custodial parent or legal custodian
6.25 retains legal custody of the child and retains decision-making authority for the child.

6.26 Sec. 6. Minnesota Statutes 2020, section 256B.0945, is amended by adding a subdivision
6.27 to read:

6.28 Subd. 1a. **Residential services; direct referral.** (a) Notwithstanding subdivision 1,
6.29 paragraph (a), a child is eligible for residential services under this chapter without a referral
6.30 from the county if the child meets the following criteria:

6.31 (1) the child has a mental health diagnosis as defined in the most recent edition of the
6.32 Diagnostic and Statistical Manual for Mental Disorders;

7.1 (2) before admission, services are determined to be medically necessary for the child
7.2 based on a review of the child's diagnostic and functional assessment; and

7.3 (3) the child was referred to residential treatment by a qualified mental health professional
7.4 as defined in section 245.4871, subdivision 27, clauses (1) to (6).

7.5 (b) The commissioner of human services shall provide oversight by reviewing the use
7.6 of referrals for clients admitted to residential treatment under paragraph (a) to ensure that
7.7 eligibility criteria, clinical services, and treatment planning reflect clinical, state, and federal
7.8 standards for residential treatment level of care.

7.9 (c) A residential treatment facility must notify the county where the child and family
7.10 reside within ten days after the date that a child was first admitted to the facility in order to
7.11 facilitate the child's transition to less restrictive community-based services.

7.12 Sec. 7. Minnesota Statutes 2020, section 256B.0945, is amended by adding a subdivision
7.13 to read:

7.14 Subd. 4a. **Payment rates; direct referral.** Notwithstanding subdivision 4 and section
7.15 256B.19, when children enrolled in medical assistance are provided services under
7.16 subdivision 1a:

7.17 (1) the commissioner shall directly pay the provider for services paid for on a
7.18 fee-for-service basis; and

7.19 (2) there is no county share.