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May 16, 2017

Joint Committee on Finance

Paper #358

Youth Crisis Stabilization Facility (Health Services -- Care and Treatment Services)

[LFB 2017-19 Budget Summary: Page 234, #7]

CURRENT LAW

All counties are required to have an emergency mental health services program. At a minimum, emergency programs must offer 24-hour crisis telephone service and 24-hour in-person service on an on-call basis. In order to receive reimbursement under the state's medical assistance program or private insurance, an emergency mental health services program must have additional features, such as a mobile crisis team that is available for at least eight hours per day, walk-in services, and short term voluntary or involuntary hospital care when less restrictive alternatives are not sufficient to stabilize an individual experiencing a mental health crisis. Counties may, at their option, establish a crisis stabilization component to their emergency mental health services program. A stabilization service is intended to provide temporary or transitional support to reduce symptoms of mental illness so that institutional treatment is not needed. Stabilization services may be provided in a variety of settings, including the person's home, a hospital, school, outpatient clinic, group home, or jail. The Department of Health Services establishes standards for county emergency mental health service programs through administrative rule.

Chapter 51 of the statutes establishes policies and procedures for the care and treatment of persons with mental illness and substance abuse disorders. The policies outlined in Chapter 51 state that persons in need of care for mental illness or substance use disorders shall have access, within the limits of available funds, to the least restrictive treatment appropriate to their needs. Among the provisions in Chapter 51 are policies with respect to the emergency detention and involuntary civil commitment of persons who have a mental illness or substance abuse disorder, who are determined to pose a danger to themselves or others, and for whom less restrictive alternatives to commitment to a treatment center is determined to be insufficient. A person who

is subject to emergency detention is taken to a treatment facility, if the facility agrees to take the individual, or to a state mental health institute. An involuntary civil commitment typically (although not necessarily) involves admission to one of the state's mental health institutes. The Winnebago Mental Health Institute, in Oshkosh, is the DHS facility used for most emergency detention and civil commitment admissions and is the exclusive state facility for such cases involving youth.

GOVERNOR

Create a certification program for youth crisis stabilization facilities, and provide funding to establish such facilities, as follows.

Certification Program. Specify that no person may operate a youth crisis stabilization facility without a certification issued by DHS, and specify that such a facility is not subject to facility regulation by the Department of Children and Families under the state children's code (children's group homes, treatment foster homes, and residential care centers).

Define a "youth crisis stabilization facility" as a treatment facility with a maximum of eight beds that admits a minor to prevent or de-escalate the minor's mental health crisis and avoid admission of the minor to a more restrictive setting. Define a "crisis" as a situation caused by an individual's apparent mental disorder that results in a high level of stress or anxiety for the individual, persons providing care for the individual, or the public and that is not resolved by the available coping methods of the individual or by the efforts of those providing ordinary care or support for the individual.

Specify that a minor may be admitted to a youth crisis stabilization facility under current law provisions for the admission of minors to an inpatient facility for treatment for mental illness, drug dependence, or alcoholism or under provisions governing civil commitment by a court of persons who are found to be mentally ill, drug dependent, or developmentally disabled and found to be dangerous to themselves or others. Specify that a youth crisis stabilization facility may not be used for the purposes of emergency detention.

Authorize DHS to promulgate administrative rules to implement these provisions. Authorize DHS to promulgate emergency rules to implement these provisions without providing evidence of the necessity of an emergency rule to preserve the public peace, health, safety, or welfare. Specify that any emergency rules established under this authority would remain in effect until July 1, 2019, or the date on which permanent rules take effect, whichever is sooner.

Funding. Provide \$249,100 PR in 2017-18 and \$996,400 PR in 2018-19 in the Division of Care and Treatment Services' interagency and intra-agency programs appropriation for the establishment of a youth crisis stabilization facility. Modify the PR appropriation for the institutional operations of the state mental health institutes to authorize DHS to transfer funds, in any amount as determined by the Department, to fund youth crisis stabilization facilities.

DISCUSSION POINTS

1. The bill's youth crisis stabilization facility item involves both a general policy for the certification of a new type of community-based treatment facility, and a funding initiative to support the operations of a particular facility of this type. These two components may be considered separately.

Youth Crisis Stabilization Facility Certification

2. Youth who experience a mental health crisis may be treated in a variety of settings, depending upon the severity of the crisis and the availability of treatment options. In some cases, admission to a private general hospital or a psychiatric hospital may be required. In cases in which a youth is considered to be a danger to himself or herself or to others and in which the youth does not consent to voluntary treatment, the emergency detention process may be used to commit the youth to the Winnebago Mental Health Institute or, if available, another inpatient treatment facility. Emergency detention is generally limited to a 72-hour period. If certain conditions are met, the civil commitment process may be initiated to commit the youth for ongoing treatment, typically, although not necessarily, at the Winnebago Mental Health Institute.

3. Not all crisis situations require inpatient treatment. Community-based, residential treatment facilities may be a less restrictive and more appropriate option in many cases, and may be used to avoid the need for later inpatient treatment. Community-based crisis stabilization may occur in various settings, including in a home, school, or office setting.

4. There are also some residential facilities that may be used for mental health crisis stabilization. DHS and the Department of Children and Families (DCF) have jointly established the agencies' policy for the use of existing residential youth facilities for the stabilization and treatment of youth experiencing a mental health crisis. The policy addresses certain out-of-home care settings regulated by DCF, in particular group homes, treatment foster homes, and residential care centers. Although these facilities are generally established for the purpose of out-of-home placements in the child welfare service system, the agencies' policy specifies that these settings may be used for youth crisis stabilization, on a voluntary placement basis, for up to five days without involvement of the child welfare system. If a stay of longer than five days is required, then a court order, issued pursuant to child welfare system procedures, is required to continue the placement.

5. Although the joint DHS/DCF policy is intended to allow the utilization of existing facilities for youth crisis stabilization, DHS indicates that these facilities are not being fully utilized for this purpose. The Department indicates that even though the policy allows a placement of up to five days in a DCF-regulated facility without involving the child welfare system, many parents avoid this placement because of the potential that a placement will require a longer stay and, therefore, a court order.

6. In addition, the Department indicates that while DCF-regulated facilities are equipped to offer crisis stabilization and treatment services, they do not typically focus on these services. [Some others choose not to offer these services.] Parents (as well as county human service agencies involved in making placements) may seek another alternative, such as admission to an inpatient

hospital, to provide more specialized care and treatment for youth experiencing a mental health crisis.

7. The bill proposes the establishment of a youth crisis stabilization facility to serve as a community-based, residential alternative to inpatient placements and DCF-regulated residential facilities. The Department envisions that such a facility would serve the needs of youth who may currently be placed in inpatient settings, and who may otherwise, if their crisis is allowed to escalate, be subject to emergency detention.

8. Unlike the DCF-regulated facilities that currently provide crisis stabilization, the youth crisis stabilization facility could be used for involuntary civil commitments, in addition to voluntary placement. The bill would specify, however, that the facilities could not be used for emergency detention.

9. The specific features and requirements for a youth crisis stabilization facility are not included in the bill, but would be established by DHS by administrative rule. Nevertheless, the Department has indicated its intent with respect to some of the basic parameters. For instance, the Department indicates that the rule would limit a youth crisis stabilization facility to a maximum of eight beds, and residents would have a maximum age of 17.

10. The Department anticipates that youth crisis stabilization facilities would be used for short-term stays, generally of five days or less. Although the youth crisis stabilization facility could not be used as a part of an emergency detention process, the Department believes that the facility could be utilized in place of emergency detention, which are also typically of short duration.

11. In terms of staffing and treatment requirements, the Department envisions that a youth crisis stabilization facility would be similar to existing community-based residential facilities (CBRFs) currently used for adults with mental illness or with care needs associated with disability or age-related infirmity.

12. It is the Department's intention to establish a regulatory structure that allows services provided at crisis stabilization facilities to be eligible for reimbursement under medical assistance (MA), in cases where services are provided to youth who are eligible for MA. Currently, county mental health crisis services are provided in a variety of settings, including in homes, schools, or office settings. Counties that elect to establish a mental health crisis service that is certified for MA reimbursement must meet minimum staffing and other requirements. Counties are reimbursed for the federal share of the costs of the stabilization service, but must pay the nonfederal share (approximately 41%). In addition, since federal Medicaid law prohibits the program from covering residential room and board costs, counties or other third parties (such as other insurance or families) would be responsible for that portion of the facility charge.

13. The youth crisis facility stabilization facility proposal was developed, in part, based on input from county human services agencies, mental health providers, and DHS and DCF staff. Approval of the provision to establish a certification and regulatory structure for a youth crisis stabilization facility would allow the Department to move forward with the proposal (Alternative A1). If the Committee does not approve of the provision (Alternative A2), youth crisis stabilization

services would continue to be provided through existing channels, including DCF-regulated out-of-home placement facilities and hospitals.

Funding Proposal

14. The following points provide a discussion of several aspects of the youth crisis stabilization funding initiative: the amount and source of the funding, the administration's intentions with respect to the use of the funding, and the mechanism that bill would establish to allow the Department to make expenditures.

15. The bill's funding proposal was developed with the intention of completely paying the operating costs of a single eight-bed facility for the first two years. The full annual cost was estimated at \$966,400, which was derived by multiplying the assumed daily rate of \$341, times eight beds, and times 365 days. The bill would provide one-quarter of this amount in the first year, on the assumption that the facility would open in April of 2018.

16. The bill would authorize DHS to transfer funds from the PR appropriation for the state mental health institutes to an existing appropriation in the Division of Care and Treatment Services for "interagency and intra-agency programs." Although the bill would increase the interagency and intra-agency programs appropriation by the amount of the administration's estimate of the cost of supporting a youth crisis stabilization facility, the existing statutory authority for this appropriation allows the Department to spend any amounts received by the appropriation. Likewise, the bill's authorization to transfer funds from the mental health institutes appropriation to the interagency and intra-agency programs appropriation is open-ended. That is, DHS would be authorized to transfer any amount, "as determined by the Department," to fund youth crisis stabilization facilities (one or more).

17. Although the Department would be authorized to transfer funds from the mental health institute's program revenue appropriation to fund the youth crisis stabilization initiative, the bill would not provide budget authority to make this transfer. As submitted, therefore, the bill would require the Department to make this transfer from the amounts budgeted for the mental health institutes. Since the introduction of the bill, DOA submitted an erratum indicating that it was the administration's intent to provide budget authority to make this transfer. Adopting this change would increase the PR appropriation for the mental health institutes by \$249,100 in 2017-18 and \$996,400 PR in 2018-19 (Alternative B1). These amounts would then be reflected in the transferring appropriation as well as the receiving appropriation.

18. With the modification requested by the administration, the Legislature would provide budget authority for the precise amount of funding in the Department's estimate of operating a youth crisis stabilization facility. However, the Department would have the authority to transfer more or less than that amount to fund one or more youth crisis stabilization facility. If the Department were to transfer more, then the additional amount would be made from funds budgeted for the mental health institutes.

19. The Department indicates that the implementation details for the proposed grant have not been fully developed. Nevertheless, the Department's preliminary plan is that the grant would

support the full costs of the facility and counties would not be charged a daily rate during the first two years. Beginning in the third year, the Department would gradually reduce the amount of support, and the facility would begin charging counties for placements to make up the difference in its operating costs. By the fifth year, the Department would no longer support the facility, requiring the full operating costs to be covered through county charges.

20. The administration indicates that DHS would issue a request for proposal (RFP) to select a provider to receive funding for the youth crisis stabilization facility. The location of the facility would be determined as part of the RFP process. Other providers (a county or private service agency) could seek certification for a youth crisis stabilization facility outside of this RFP process, although these would presumably have to be funded through other means, including being fully self-supporting through charges for services.

21. DHS indicates that because of considerable uncertainty regarding the demand for and the cost of providing youth crisis stabilization facility services, it is believed that fully supporting the facility for two years would be necessary to encourage a provider to begin offering the service.

22. The Department's intentions for funding a youth crisis stabilization facility, as described in the previous points, are not specifically outlined in the bill. Rather, the bill would simply authorize the Department to use funds, in an amount determined by the Department, for establishing a youth crisis stabilization facility. Consequently, this proposal could be modified if the Department later determines that there are better ways of meeting this objective. Given the uncertainty regarding the demand for youth crisis stabilization services, the location of the facility, the number of other such facilities in the state, if any, the bill would allow the Department flexibility to determine the best course of action (Alternative B1).

23. The Department's preliminary proposal would have the advantage of having a high probability that a provider could be selected, since the operating costs would be fully paid for the first two years and partially paid for next two years. In addition, there is a high likelihood that counties would utilize the facility, since there would initially be no facility charge, and the facility services could substitute for services for which counties are required to pay.

24. There are potential disadvantages to the Department's proposal. Ultimately, the Department's goal is that the facility would be self-sustaining, fully covering its costs through county charges (or else be directly supported by one or more counties). However, with no cost to counties during the first two years, the demand for services during this period may not be indicative of the ongoing use of the service once counties are charged for placements. Therefore, it may be difficult to gauge the ongoing sustainability of the facility during this period.

25. Another disadvantage of the Department's approach is that only one youth crisis stabilization facility would be established (although others might be established without state funding). With just one facility, the geographic reach of the Department's initiative would be limited.

26. If the Committee supports the intent to provide some financial support for youth crisis stabilization facilities, but would like to provide more direction on how the grants are made, the

Governor's proposal could be approved, with some modifications. Instead of providing full support for a single facility, one option would be to provide partial support for several facilities, using the same amount of total funding. This could have the advantage of providing supported youth crisis stabilization facilities that are within reasonable travel distance to more areas of the state. In addition, if counties are required to pay something for the service (as would be required without full state support), this alternative approach would avoid distorting the pricing structure relative to a self-sustaining facility model.

27. There could be several possible approaches to providing partial support for a youth crisis stabilization facility, and the most effective approach may vary. In some cases, for instance, a facility may experience enough demand to support its operating costs with service charges if the state provided a grant for selected start-up costs. In other cases, a facility may benefit from having a state payment if utilization falls below a certain minimum level. That is, the state could establish a monthly revenue floor, paying the difference, if any, between actual revenue and the minimum. This payment could also be capped, to avoid supporting a facility that would be unlikely to become self-sufficient.

28. Without a more complete understanding of the demand and cost of providing youth crisis stabilization services, it may not be desirable for the Legislature to prescribe a precise approach to making a grant. However, the bill could be amended to encourage DHS to generally follow an approach to supporting youth crisis stabilization facilities that is consistent with the principles outlined in the previous points. Accordingly, DHS could be required to do the following: (a) solicit proposals for youth crisis stabilization facilities in different parts of the state; (b) select a number of viable proposals to provide support, with the goal of selecting at least three; and (c) require that the selected proposals derive at least 50% of their operating costs through facility charges or direct support from counties (Alternative B2).

29. The Committee could also determine that no state funding should be provided to establish or assist in the operation of a youth crisis stabilization facility. In this case, any facilities established by counties or private entities would have to be self-sufficient from the start (Alternative B3).

Funding Mechanism and Source

30. The youth crisis stabilization facility grant would be made using surplus program revenue collected by the state mental health institutes. The PR appropriation is projected to have an unencumbered balance at the end of 2016-17 of approximately \$15.0 million. This balance has accumulated as the result of two principal factors. First, the high number of civil patients admitted to the Winnebago Mental Health Institute in recent years has meant that the facility operates at or above capacity most of the time. Under these circumstances, collections from counties can exceed actual operating costs. Second, in 2013-14 the Department received Medicaid payments, totaling \$13.5 million, representing several prior years of costs settlement payments (difference between provisional payment and actual billed costs).

31. By using the mental health institutes PR balance, the bill would fund the youth crisis stabilization facility using moneys that are largely derived from county payments for the care of

individuals placed in the institutes under emergency detention or civil commitment. Since the youth crisis stabilization facility may have the potential to divert persons facing mental illness or addiction from more costly county-funded services, it may benefit counties and so is arguably an appropriate use of the surplus funds collected from counties. If, however, the Committee determines that it would be inappropriate to divert funds collected for the specific purpose of providing care at the mental health institutes to fund a youth crisis stabilization facility, the bill could be amended to instead provide GPR funding for this purpose (\$249,100 GPR in 2017-18 and \$996,400 GPR 2018-19). This funding could be provided in a new appropriation for this purpose (Alternative C2).

32. The authority to transfer funding from the mental health institutes PR appropriation would be ongoing, meaning that the Department could continue to provide support for one or more youth crisis stabilization facilities in future years. By providing budget authority in the mental health institutes PR appropriation (under Alternative B1), the Legislature would be establishing ongoing base funding for this purpose, from revenues largely collected for the purpose of operating the mental health institutes. The Committee may determine that it is appropriate to fund the youth crisis stabilization facility with the mental health institutes PR balance in the 2017-19 biennium, but that the state should fund the facility with GPR on an ongoing basis after 2018-19. In this case, the bill could be amended to specify that the PR funding is available on a one-time basis in 2018-19 (not included in the appropriation base for the purposes of the 2019-21 budget). To provide the ongoing funding for the youth crisis stabilization facility, DHS could be required to request a GPR funding increase in its 2019-21 budget request (Alternative C3a).

33. With the modification requested in the administration's erratum, the Legislature would provide PR budget authority for the precise amount of funding that the administration estimates would be needed to operate a youth crisis stabilization facility. However, the Department would have the authority to transfer more or less than that amount to fund one or more youth crisis stabilization facilities. If the Department were to transfer more, then the additional amount would be made from funds budgeted for the mental health institutes. If the Committee decides to limit the Department's authority to determine the number and amount of youth crisis stabilization facilities to support, the bill could be amended to create a separate, sum-certain appropriation for the youth crisis stabilization facility. In this case, the Department would be authorized to transfer only the amounts included in that appropriation, or \$249,100 PR in 2017-18 and \$996,400 PR 2018-19 (Alternative C3b).

ALTERNATIVES

A. Youth Crisis Stabilization Facility Certification

1. Approve the Governor's recommendation to create a certification program for youth crisis stabilization facilities.
2. Delete provision.

B. Youth Crisis Stabilization Facility Funding

1. Approve the Governor's recommendation to provide \$249,100 PR in 2017-18 and \$996,400 PR in 2018-19 in the Division of Care and Treatment Services' interagency and intra-agency programs appropriation for the establishment of a youth crisis stabilization facility. Modify the PR appropriation for the institutional operations of the state mental health institutes to authorize DHS to transfer funds, in any amount as determined by the Department, to fund youth crisis stabilization facilities. Provide \$249,100 PR in 2017-18 and \$996,400 PR in 2018-19 in the mental health institutes appropriation, in accordance with DOA's erratum for this item.

ALT B1	Change to	
	Base	Bill
PR	\$2,491,000	\$1,245,500

2. Approve the Governor's funding recommendation, as modified by the erratum, but modify the bill to require DHS to do all of the following in distributing the funding: (a) solicit proposals for youth crisis stabilization facilities in different parts of the state; (b) select a number of viable youth crisis stabilization proposals to provide financial support, with the goal of selecting at least three; and (c) require that the selected proposals derive at least 50% of their operating costs through facility charges or direct support from counties.

ALT B2	Change to	
	Base	Bill
PR	\$2,491,000	\$1,245,000

3. Delete funding proposal.

ALT B3	Change to	
	Base	Bill
PR	\$0	-\$1,245,500

C. Funding Source and Mechanism

1. Modify the Governor's recommendation by replacing the PR funding, \$249,100 PR in 2017-18 and \$996,400 PR in 2018-19, with an equal amount of GPR in a new appropriation for youth crisis stabilization facility grants. [This alternative could be selected in place of B1, or in addition to B2.]

ALT C1	Change to	
	Base	Bill
GPR	\$1,245,500	\$1,245,500
PR	<u>0</u>	<u>- 1,245,500</u>
Total	\$1,245,500	\$0

2. Modify the Governor's PR funding recommendation (as amended by the DOA erratum) by adopting one or both of the following:

a. Specify that the funding for youth crisis stabilization facility grants would be provided on a one-time basis in the 2017-19 biennium. Delete the Department's authority to transfer funds from the mental health institutes PR appropriation for the youth crisis stabilization facility after June 30, 2019. Require DHS to include in its 2019-21 budget request a proposal to provide ongoing GPR funding for the youth crisis stabilization facility.

b. Create a sum-certain appropriation for making youth crisis stabilization grants and authorize DHS to transfer funds to that appropriation, instead of the interagency and intra-agency programs appropriation. Authorize the Department to transfer the amounts shown in the appropriation schedule for this appropriation from the mental health institutes PR appropriation.

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