

Amendment to SB 590-FN-A

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT making a supplemental appropriation to the state loan repayment program and  
4 relative to emergency involuntary admissions, the child protection act, and the  
5 developmental disabilities wait list and making appropriations therefor.  
6

7 Amend the bill by replacing all after the enacting clause with the following:

8

9 1 New Paragraph; Mental Health Services System; Definitions. Amend RSA 135-C:2 by  
10 inserting after paragraph XV the following new paragraph:

11 XV-a. "Transitional housing program services" means a residential program that provides  
12 housing and support services to persons with serious and persistent mental illness through a  
13 contract with the department of health and human services.

14 2 Involuntary Emergency Admissions; Examination. Amend RSA 135-C:28, I to read as follows:

15 I. The involuntary emergency admission of a person shall be to the state mental health  
16 services system under the supervision of the commissioner. The admission may be ordered upon  
17 the certificate of a physician or APRN, as defined in RSA 135-C:2, II-a, who is approved by either a  
18 designated receiving facility or a community mental health program approved by the commissioner,  
19 provided that within 3 days of the completion of the petition the physician or APRN has conducted,  
20 or has caused to be conducted, a physical examination if indicated and circumstances permit, and a  
21 mental examination. The physician or APRN must find that the person to be admitted meets the  
22 criteria of RSA 135-C:27. The certificate shall state the time and, in detail, the nature of the  
23 examinations conducted. The certificate shall also state a specific act or actions the physician or  
24 APRN has actually observed or which have been reported to him or her by the petitioner or a  
25 reliable witness who shall be identified in the certificate, and which in the physician's or APRN's  
26 opinion satisfy the criteria set forth in RSA 135-C:27. The physician or APRN shall ~~identify in the~~  
27 ~~certificate the facility in the state mental health services system to which the person shall be~~  
28 ~~admitted]~~ ***inform the person of the specific designated receiving facility in the mental***  
29 ***health services system that he or she will be transported to upon the facility location being***  
30 ***identified.*** The admission shall be made to the facility which can best provide the degree of  
31 security and treatment required by the person and shall be consistent with the placement principles  
32 set forth in RSA 135-C:15. As used in RSA 135-C:27-33, "petitioner" means any individual,  
33 including a physician or APRN completing a certificate, who has requested that a physician or

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1 APRN conduct or who has conducted an examination for purposes of involuntary emergency  
2 admission. Every certificate shall be accompanied by a written petition signed by a petitioner.

3 3 Nonemergency Involuntary Admissions; Conditions of Conditional Discharge. Amend RSA  
4 135-C:50, III to read as follows:

5 III. During the term of conditional discharge, the person conditionally discharged shall be  
6 provided with continuing treatment on an out-patient basis by a community mental health program  
7 approved by the commissioner **or by transitional housing services**.

8 4 Nonemergency Involuntary Admissions; Revocation of Conditional Discharge. Amend the  
9 introductory paragraph of RSA 135-C:51, I to read as follows:

10 I. If a psychiatrist or APRN, as defined in RSA 135-C:2, II-a, at a community mental health  
11 program **or transitional housing services** providing continuing treatment on an outpatient basis  
12 to a person conditionally discharged pursuant to RSA 135-C:50, reasonably believes that:

13 5 Nonemergency Involuntary Admissions; Revocation of Conditional Discharge. Amend RSA  
14 135-C:51, III to read as follows:

15 III. If the psychiatrist or APRN, following the examination the psychiatrist or APRN  
16 conducted or caused to be conducted of the person, finds that the person either has violated a  
17 condition of the discharge or is in such a mental condition as a result of mental illness as to create a  
18 potentially serious likelihood of danger to himself or herself or to others, he or she may temporarily  
19 revoke the conditional discharge. If the conditional discharge is temporarily revoked, the  
20 psychiatrist, or APRN, or designee, shall prepare, offer to and explain to the person a written  
21 notice, if it can be done safely without significant possibility of bodily harm, giving the reasons for  
22 the revocation and to ~~[identify the receiving facility to which the person is to be delivered]~~ **inform**  
23 **the person of the specific designated receiving facility in the mental health services system**  
24 **that he or she will be transported to upon the facility location being identified**. If this  
25 cannot be done safely, a description of the circumstances indicating such risk shall be placed in the  
26 file.

27 6 Guardians and Conservators; General Powers and Duties of Guardian of the Person. Amend  
28 RSA 464-A:25, I(a) to read as follows:

29 (a) To the extent that it is consistent with the terms of any order by a court of  
30 competent jurisdiction relating to detention or commitment of the ward, the guardian shall be  
31 entitled to custody of the ward and may establish the ward's place of abode within or without this  
32 state. Admission to a state institution **or other designated receiving facility** shall be in  
33 accordance with the following:

34 (1) A guardian may admit a ward to a state institution **or other designated**  
35 **receiving facility** with prior approval of the probate court if, following notice and hearing, the  
36 court finds beyond a reasonable doubt that the placement is in the ward's best interest and is the  
37 least restrictive placement available. Authorization for such admission shall not be time limited

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1 unless the court so orders. Authority to admit a ward to a state institution ***or other designated***  
2 ***receiving facility*** with prior approval under this subparagraph shall not be subject to the  
3 limitations contained in RSA 464-A:25, I(a)(2) through (7).

4 (2) A guardian may admit a ward to a state institution ***or other designated***  
5 ***receiving facility*** without prior approval of the probate court upon written certification by a  
6 physician licensed in the state of New Hampshire, or, in the case of placement in New Hampshire  
7 hospital ***or other designated receiving facility***, by a psychiatrist licensed in the state of New  
8 Hampshire, or an advanced practice registered nurse, as defined in RSA 135-C:2, II-a, that the  
9 placement is in the ward's best interest and is the least restrictive placement available. Within 36  
10 hours, excluding days when the court is closed, of such an admission of a ward to a state institution  
11 ***or other designated receiving facility***, the guardian shall submit to the Merrimack county  
12 probate court notice of the admission and the reasons therefor, together with a copy of the  
13 certificate by the physician, psychiatrist, or advanced practice registered nurse.

14 (3) The Merrimack county probate court shall review the guardian's notice within  
15 48 hours of the filing of the notice, excluding days when the court is closed, to determine whether  
16 the notice on its face appears to establish that the placement is in the ward's best interest and is the  
17 least restrictive placement available. If the court concludes that the notice is insufficient, the court  
18 shall order the immediate release of the ward from the state institution ***or other designated***  
19 ***receiving facility***. If the court concludes that the notice is sufficient, counsel for the ward shall be  
20 appointed no later than 48 hours following the court's review of the guardian's notice, excluding  
21 days when the court is closed. Notice of the appointment shall be transmitted to the ward, to the  
22 guardian, and to counsel. Counsel's notice shall be transmitted in writing and electronically or in  
23 another manner which is likely to give actual notice of the appointment to counsel at the earliest  
24 practicable time. For purposes of proceedings regarding admissions to state institutions ***or other***  
25 ***designated receiving facilities*** without prior court approval, the ward shall have the right to  
26 legal counsel in the same manner as provided in RSA 464-A:6. The court shall also provide the  
27 ward a notice stating that the ward has the right to appointed counsel, the right to oppose the  
28 admission by the guardian, and the right to a hearing and to present evidence at that hearing.

29 (4) Counsel for a ward admitted to a state institution ***or other designated***  
30 ***receiving facility*** who has been appointed pursuant to subparagraph (3) shall deliver a written  
31 report to the court within 5 days of his or her appointment which shall declare whether the ward  
32 requests a hearing on the propriety of the admission. Unless the ward waives a hearing, counsel's  
33 report shall include a request for a hearing on behalf of the ward. A copy of counsel's report shall  
34 be sent to the ward and to the guardian. If the court does not receive a written report from counsel  
35 within 5 days of counsel's appointment, the court shall order appropriate relief, including but not  
36 limited to substitution of counsel, an order to show cause, or scheduling of a hearing on the  
37 propriety of the admission without awaiting a report from counsel.

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(5) Upon receipt of a request for a hearing, the court shall schedule a hearing on the admission to a state institution ***or other designated receiving facility*** without prior approval of the probate court, at which the guardian shall have the burden of proving, beyond a reasonable doubt, that the placement is in the ward's best interest and is the least restrictive placement available. The hearing shall be held within 10 days, excluding days when the court is closed, from the date that the request is received.

(6) A guardian may not admit a ward to a state institution ***or other designated receiving facility*** for more than 60 days for any single admission or more than 90 days in any 12-month period upon certification of a physician or psychiatrist, or an advanced practice registered nurse, as defined in RSA 135-C:2, II-a, without filing a petition requesting approval of the probate court.

(7) At any time, the ward or counsel for the ward may request a hearing on the admission to a state institution ***or other designated receiving facility*** without prior approval of the probate court, at which the guardian shall have the burden of proving, beyond a reasonable doubt, that the placement is in the ward's best interest and is the least restrictive placement available. The hearing shall be held within 15 days, excluding days when the court is closed, from the date that the hearing is requested.

7 Child Protection Act; Duties of the Department of Health and Human Services. Amend RSA 169-C:34, II-a to read as follows:

II-a. The department may issue a confidential letter of concern to a person or persons responsible for the safety and welfare of the child that although there is insufficient evidence to substantiate a finding of abuse or neglect or of unfounded but with reasonable concern, the department encourages the person or persons responsible for the safety and welfare of the child to seek family support services and provide contact information to obtain such services. ***Upon initiating an assessment, the department may offer the family ameliorative services to reduce risk and address child safety concerns.***

8 Child Protection Act; Duties of the Department of Health and Human Services. Amend RSA 169-C:34, V and V-a to read as follows:

V. Notwithstanding any other provision of law to the contrary, the department may~~;~~  
~~pursuant to a voluntary service plan that is developed and provided for a minor and the minor's~~  
~~family by the department,~~ offer voluntary services to families without making a determination of the person or persons ~~[apparently]~~ responsible for the abuse or neglect. The department shall adopt rules, pursuant to RSA 541-A, relative to the provision of voluntary services under this paragraph. ***The costs of voluntary services provided by the department under this paragraph shall not be subject to reimbursement under RSA 169-C:27.***

V-a. Notwithstanding any other provision of law to the contrary, the department may~~;~~  
~~pursuant to a voluntary service plan that is developed and provided for the child by the~~

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1 ~~department,~~ offer voluntary services to any child who prior to his or her eighteenth birthday was  
2 found to be neglected or abused, who was in legal custody of the department as of his or her  
3 eighteenth birthday, and who is less than 21 years of age. ***The costs of voluntary services***  
4 ***provided by the department under this paragraph shall not be subject to reimbursement***  
5 ***under RSA 169-C:27.***

6 9 Child Protection Act; Liability of Expenses and Hearing on Liability. Amend RSA 169-C:27,  
7 I(a) to read as follows:

8 (a) Whenever an order creating liability for expenses is issued by the court under this  
9 chapter ~~[or whenever a voluntary service plan is developed and provided for a minor and the~~  
10 ~~minor's family by the department]~~, any expenses incurred for services, placements, and programs  
11 the providers of which are certified pursuant to RSA 170-G:4, XVIII, shall be payable by the  
12 department of health and human services.

13 10 Appropriation. The sum of \$1,500,000 dollars for the fiscal year ending June 30, 2019, is  
14 hereby appropriated to the department of health and human services for the purposes of funding  
15 voluntary services provided to children, youth and families under RSA 169-C. The governor is  
16 authorized to draw a warrant for said sum out of any money in the treasury not otherwise  
17 appropriated.

18 11 New Paragraph; Services for Children, Youth and Families; Incentive Funds. Amend RSA  
19 170-G:4 by inserting after paragraph XIX the following new paragraph:

20 XX. Encourage cities, towns and counties to develop and maintain prevention programs,  
21 court diversion programs and alternatives to out of home placement for children, youth and families  
22 through the transfer of funds to cities, town and counties which have or are developing such  
23 programs. The transfer of funds shall be in such amounts as are appropriated by the general court  
24 for this purpose. The method of distribution shall be based on rules adopted by the commissioner  
25 pursuant to RSA 541-A. For the purposes of this paragraph, prevention programs shall include  
26 programs or activities for the prevention of child abuse and neglect as well as programs or activities  
27 for the prevention of children in need of services (CHINS) and delinquent behaviors.

28 12 Appropriation. The sum of \$1,500,000 dollars for the fiscal year ending June 30, 2019, is  
29 hereby appropriated to the department of health and human services for the purpose of funding  
30 community-based prevention programs and services pursuant to RSA 170-G:4, XX. The governor is  
31 authorized to draw a warrant for said sum out of any money in the treasury not otherwise  
32 appropriated

33 13 Supplemental Appropriation; State Loan Repayment Program. In addition to any other  
34 sums appropriated to accounting unit 05, 95, 90, 901010, 7965, line 073, grants-non-federal, there  
35 is hereby appropriated the sum of \$1,100,000 for the fiscal year ending June 30, 2019 for the state  
36 loan repayment program. The department may exceed this amount if new federal funds become  
37 available to the program. The governor is authorized to draw a warrant for said sums out of any

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1 money in the treasury not otherwise appropriated.

2 14 New Section; Protection for Maternity and Infancy. Amend RSA 132 by inserting after  
3 section 10-d the following new section:

4 132:10-e Home Visiting Program. The New Hampshire home visiting program shall be  
5 available to Medicaid eligible families without restriction.

6 15 New Section; Rescission of Involuntary Admission. Amend RSA 135-C by inserting after  
7 section 29 the following new section:

8 135-C:29-a Rescission of Involuntary Admission.

9 I. Following completion of an involuntary emergency admission certificate under RSA 135-  
10 C:28 and before custody of the person is accepted by a law enforcement officer pursuant to RSA 135-  
11 C:29, the certificate may be rescinded and the person who is the subject of the certificate released in  
12 any of the following circumstances:

13 (a) A mobile crisis team under contract with the department of health and human  
14 services accepts transfer of the person's care.

15 (b) An assertive community treatment team operated by a community mental health  
16 program accepts transfer of the person's care.

17 (c) A community-based provider accepts transfer of the person's care.

18 II. Following completion of an involuntary emergency admission certificate under RSA 135-  
19 C:28 and before custody of the person is accepted by a law enforcement officer pursuant to RSA 135-  
20 C:29, the certificate shall be rescinded and the person who is the subject of the certificate released if  
21 the physician or APRN who completed the certificate, or any other physician or APRN authorized to  
22 complete such certificates, finds that the person no longer meets the criteria of RSA 135-C:27.

23 III. No civil action shall be maintained against a person who rescinds an involuntary  
24 admission pursuant to paragraph I or II, provided that the person is acting in good faith within the  
25 limits of his or her authority.

26 16 Appropriation; Department of Health and Human Services; Division for Children, Youth  
27 and Families; Attorneys. The sum of \$310,000 for the biennium ending June 30, 2019, is hereby  
28 appropriated to the department of health and human services for the purpose of hiring 3 attorneys  
29 for the division for children, youth and families. This sum is in addition to any other funds  
30 appropriated to the department. The governor is authorized to draw a warrant for said sum out of  
31 any money in the treasury not otherwise appropriated.

32 17 Appropriation; Department of Health and Human Services; Developmental Disabilities Wait  
33 List. The sum of \$1,162,135 for the fiscal year ending June 30, 2018, is hereby appropriated to the  
34 department of health and human services for the purposes of funding the developmental disabilities  
35 wait list. This sum is in addition to any other funds appropriated to the department. The governor  
36 is authorized to draw a warrant for said sum out of any money in the treasury not otherwise  
37 appropriated.

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1       18 10-Year Plan for Mental Health Services. Amend 2017, 112:2, III to read as follows:

2           III. The commissioner of the department of health and human services shall submit the  
3 plan to the speaker of the house of representatives, the president of the senate, and the governor on  
4 or before ~~[July 1, 2018]~~ **October 15, 2018**. The department shall provide interim reports to the  
5 oversight committee on health and human services, established under RSA 126-A:13, on or before  
6 October 1, 2017 and on or before March 1, 2018. Thereafter, the department shall report quarterly  
7 to the health and human services oversight committee providing an update on the progress of the  
8 development and implementation of the plan.

9       19 Department of Health and Human Services; Behavioral Health Crisis Treatment Center.  
10 Amend 2017, 156:188 to read as follows:

11       156:188 ~~[Mobile Crisis Teams and Apartments]~~ **Behavioral Health Crisis Treatment**  
12 **Center**. The commissioner of the department of health and human services shall issue a request  
13 for proposals (RFP) for a ~~[mobile crisis team and apartments]~~ **behavioral health crisis treatment**  
14 **center** from qualified vendors. The RFP for the ~~[mobile crisis team and apartments]~~ **treatment**  
15 **center** shall be issued no later than June 30, 2017 and operational no later than ~~[January]~~ **July** 1,  
16 2018. Any new ~~[mobile crisis teams]~~ **behavioral health crisis treatment center** shall be  
17 established in **a** geographic ~~[locations]~~ **location** that ~~[have]~~ **has** high rates of admissions to and  
18 discharges from New Hampshire hospital.

19       20 Department of Health and Human Services; Mobile Crisis Teams and Apartments. The  
20 commissioner of the department of health and human services shall issue a request for proposals  
21 (RFP) for qualified vendors to establish an additional mobile crisis team and apartments. The RFP  
22 for the mobile crisis team and apartments shall be issued contingent upon available funding for the  
23 biennium ending June 30, 2019. Before issuing the RFP, the commissioner shall present to the  
24 fiscal committee of the general court, established under RSA 14:30-a, the source of the funds to be  
25 used to support the new mobile crisis team and apartments.

26       21 Designated Receiving Facilities; Residential Beds. The section heading and paragraph I of  
27 2017, 156:186 are repealed and reenacted to read as follows:

28       156:186 Supported Housing; Residential Beds.

29           I. The commissioner of the department of health and human services shall contract with  
30 programs that enable individuals with serious mental illness to attain and maintain integrated,  
31 affordable, supported housing. The department shall use funding not to exceed \$500,000 from  
32 existing appropriations for the biennium ending June 30, 2019.

33       22 Effective Date.

34           I. Sections 7-12 of this act shall take effect July 1, 2018.

35           II. The remainder of this act shall take effect upon its passage.

2018-0991s

AMENDED ANALYSIS

This bill:

I. Clarifies admission to receiving facilities and other services for persons who are involuntarily committed under RSA 135-C.

II. Makes a supplemental appropriation to the state loan repayment program.

III. Clarifies the determination of unfounded but with reasonable concern for possible abuse and neglect under the child protection law, and enables the department of health and human services to offer voluntary services to the family.

IV. Makes appropriations for voluntary services and community-based prevention programs under the child protection act.

V. Provides that the New Hampshire home visiting program shall be available to Medicaid eligible families.

VI. Makes an appropriation to the department of health and human services to hire additional attorneys.

VII. Makes an appropriation to the department of health and human services for the purpose of funding the developmental disabilities wait list.

VIII. Requires the commissioner of the department of health and human services to issue requests for proposals for a behavioral health crisis treatment center and, contingent upon available funding, an additional mobile crisis team and apartments.