

Floor Amendment to HB 1573-FN

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

2
3 1 Statement of Purpose and Findings. The general court makes the following findings regarding
4 children in state care:

5 I. Children in the care of the state have fundamental rights, as recognized by RSA 170-G:21.

6 II. When a child is placed under the care and custody of the state pursuant to RSA 169-B,
7 RSA 169-C or RSA 169-D, it is the responsibility of the state to ensure that a child receives
8 appropriate housing, nutrition, medical and mental health care, education, and basic standards of
9 care.

10 III. Children who are removed from their homes must be placed in the least restrictive
11 alternate setting. When removal and placement cannot be avoided, the disruption that the child
12 may experience is minimized, and emotional trauma may be reduced, by placing the child in the
13 most familiar, least restrictive setting. The first alternative considered is placement with a relative
14 or a close friend, "kin" or "fictive kin", to offer the child some degree of familiarity and continuity.
15 When placement with a relative or a family friend is not possible, the least restrictive placement of
16 choice is placement in a licensed foster home.

17 IV. Residential facilities are appropriate only for children who cannot safely receive the
18 clinically appropriate treatment in their own home or a community-based alternative; a shortage or
19 lack of foster family homes or community-based resources shall not be an acceptable primary reason
20 for placement in a residential facility. Residential facilities are congregate care placements, are
21 considered the most restrictive settings for receiving treatment, and are generally not appropriate
22 for children under 12 years of age. Therefore, placement in a residential setting is used only as a
23 last alternative for children age 12 and older. Special consideration will be given to children under
24 age 12, if deemed clinically appropriate due to a therapeutic or medical necessity.

25 V. Placing children in facilities must be viewed as a time-limited and only for the purpose of
26 treatment and services. The purpose is to stabilize the child's behaviors, provide treatment and to
27 prepare him or her for a less restrictive setting. The goal is to facilitate family/caregiver integration
28 or another plan consistent with the agency's policy of permanency planning.

29 VI. To best meet the needs of the children placed in a residential setting, the department of
30 health and human services (DHHS), in coordination with the office of child advocate (OCA), will
31 expand and enhance certification requirements and oversight process. In addition to certification,
32 DHHS and OCA will coordinate to improve caseworker visits with children placed by the state in a

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1 residential setting. To allow for the expansion of these services to be implemented in a thoughtful
2 and detailed manner that meets the requirements of both DHHS and OCA, the appropriation
3 effective date will allow for time to establish the program through hiring and training, with the
4 remaining sections effective 6 months later. DHHS and OCA will continue this coordination through
5 regular meetings and coordinated visits.

6 2 Residential Care and Child-Placing Agency Licensing; Deemed Licensed. Amend RSA 170-
7 E:31-a to read as follows:

8 170-E:31-a Deemed Licensed. Any ~~qualified~~ residential treatment program accredited by
9 organizations as specified in Title 42 of the Social Security Act, 42 U.S.C. section 672(k)(4)(G), as
10 amended, shall submit a completed license application or renewal application. Such child care
11 institutions and child care agencies defined as group homes, specialized care, or homeless youth
12 programs, shall be deemed licensed under this subdivision and shall be exempt from inspections
13 carried out under RSA 170-E:31, IV. This section shall only apply to the activities or portions of the
14 facility or agency accredited under Title 42 of the Social Security Act, 42 U.S.C. section 672(k)(4)(G),
15 as amended. ***Any child care institution or child care agency deemed licensed under this***
16 ***section shall be subject to the requirements of this chapter, RSA 169-F, and RSA 170-G:4,***
17 ***XVIII.***

18 3 New Sections; Out-of-Home Placements; Oversight. Amend RSA 169-F by inserting after
19 section 4 the following new sections:

20 169-F:5 Oversight of Children in Care; Department Responsibilities.

21 I. Any child in a court-ordered placement pursuant to RSA 169-B, RSA 169-C, or RSA 169-D
22 by the department shall be seen in-person on at least a monthly basis, by the case worker assigned
23 to that child's case. In the event the assigned case worker is not available, another case worker or
24 supervisor familiar with the child and/or case may perform the visit. The visit to the child shall
25 include a private meeting with the child, in a safe place as determined by the case worker, to inquire
26 about care received, as well as an in-person tour of the child's living quarters. The monthly contact
27 shall also include contact with the child's placement provider, therapeutic providers, and educational
28 providers, preferably in real-time, but at least by written correspondence. In addition, for any child
29 placed in a residential placement by the department, these visits shall include a tour of that portion
30 of the facility the child may access; a check-in with appropriate leadership about program culture
31 and therapeutic programming; a check-in with program direct care staff about the child's progress in
32 the program; and a check-in with the clinical director and/or the child's therapeutic provider about
33 the program culture, therapeutic programming, and the child's individual progress, strengths and
34 challenges in the program, which may occur outside of the in-person visit in virtual real-time if
35 circumstances require.

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1 II. The department shall develop, in consultation with the office of child advocate, a
2 standard operating procedure and form for monthly visits conducted by the department, pursuant to
3 RSA 169-F:5, I, to be completed during each monthly in-person visit.

4 169-F:6 Residential Treatment Programs; Certification Required.

5 I. No child shall be placed by the department in a residential treatment program, including
6 a residential treatment program or psychiatric residential treatment program, unless the program
7 has been licensed in accordance with RSA 170-E or the laws of the state in which they operate, and
8 certified by the department under this chapter. Any program not certified by the department shall
9 not be eligible to receive state funds or federal funds disbursed by the state of New Hampshire.

10 II. On or before January 2, 2025, the department shall establish a certification team,
11 responsible for the certification, recertification, and oversight of all residential treatment programs
12 utilized by the department, and certified for placements and payment by the department. Such
13 assessments shall include an in-person visit of the facility and review of all appropriate records and
14 certification criteria. The team shall give priority to all residential treatment programs where
15 children are placed on the effective date of this section.

16 III. The team shall develop a standard operating procedure and form for assessment of the
17 programs to be completed during each in-person visit, in consultation with the office of the child
18 advocate.

19 IV. The department shall assess and certify for payment every in-state and out-of-state
20 program including residential treatment program or psychiatric residential treatment program prior
21 to the placement of any child in that facility. To be certified by the department, the program shall
22 demonstrate compliance with staff training and program requirements and offer an appropriate
23 therapeutic milieu and culture - centered in trauma-informed care, in accordance with standards
24 adopted by the department, in consultation of the office of the child advocate.

25 V. The department shall make monitoring visits, in-state and out-of-state, at least twice per
26 year, of which at least one shall be unannounced, to all facilities where New Hampshire children are
27 currently placed by the state in residential treatment. The department shall continue to make
28 annual recertification or technical assistance visits to all certified residential placement facilities
29 that have received a New Hampshire child within the certification period; if a child is being placed at
30 a residential facility that does not currently have a New Hampshire child in placement, the
31 department shall make a visit prior to the placement of that child unless a department visit has
32 occurred within the past 120 days. Upon renewal of certification, if a program has not served a New
33 Hampshire child within the prior 12 months, the department may waive the recertification visit and
34 conditionally recertify the program subject to conducting an on-site visit prior to the placement of a
35 New Hampshire child. Clear and comprehensive records shall be maintained by the department on
36 each facility showing the dates and findings of each such visit. Such records shall be made available
37 to the facility and the office of the child advocate, as well as included in the paperwork for the

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1 certification and/or re-certification process. If the facility is found not to be in compliance either with
2 the statute or the rules adopted by the commissioner, a corrective action plan shall be submitted to
3 the department, and the department shall notify the licensing agency of that facility if the corrective
4 action plan includes concerns of health or safety. Failure to submit an acceptable plan or a failure to
5 take the necessary corrective actions shall result in the immediate removal of all New Hampshire
6 children from that facility, and/or revocation of the certification.

7 VI. Any placement of a child outside of New England shall require the approval of the
8 division for children youth and families' director prior to that placement, with specific findings of the
9 need for that placement.

10 169-F:7 Court Oversight of Children in Residential Treatment Programs.

11 I. Except in cases of emergency placement, prior to placing a child in residential treatment
12 programs or psychiatric residential treatment programs, the court shall:

13 (a) Consider all assessments and plans for the child, including assessment of whether a
14 residential treatment program is the most effective and appropriate level of care, in the least
15 restrictive environment for the child, and any child-specific, short- and long-term goals for the child
16 and the family. The assessment shall specify, in writing:

17 (1) Whether the child's needs can be met in a kin, fictive kin or foster family home,
18 not primarily dependent upon availability of community resources.

19 (2) If the assessment recommends a residential treatment program:

20 (A) The specific reasons why the child's needs cannot be met in a kin, fictive kin
21 or foster family home, not primarily dependent upon availability of community resources; and

22 (B) Why recommended placement in a residential treatment program is the
23 setting that will provide the child with the most effective and appropriate level of care, in the least
24 restrictive environment.

25 (3) How the placement is consistent with the short- and long-term goals for the child,
26 as specified in the case plan or permanency plan for the child.

27 (b) Confirm that the school district has complied with its legal obligations to assess the
28 educational impact of the placement and consider the school district's input on that impact.

29 (c) Determine that the needs of the child cannot be met through placement with a
30 parent, legal guardian, legal custodian, kin or fictive kin caregiver, or in a foster family home; and
31 that placement of the child in a residential treatment program provides the most effective and
32 appropriate level of care for the child in the least restrictive environment; and that placement is
33 consistent with the short- and long-term goals, including mental, behavioral, and physical health
34 goals, for the child as specified in the permanency plan for the child, or as outlined in the family
35 services plan. A shortage or lack of foster family homes shall not be an acceptable primary reason
36 for determining that the needs of the child cannot be met in a foster family home.

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1 (d) Review information relating to the facility, including staff-to-child ratio; staff
2 training; program culture; therapeutic, clinical and milieu programming; educational programming;
3 recreational programming; and, family connections, in order to ensure that the program is the most
4 effective and appropriate level of care, in the least restrictive environment for the child, and meets
5 the child-specific short- and long-term goals for the child and the family.

6 (e) Approve or disapprove of the placement, in a written order, containing all of the
7 necessary findings provided in this section.

8 II. In the case of an emergency necessitating immediate placement of a child in a residential
9 treatment program, the department shall notify the court within 2 business days of such placement,
10 in order for the court to make the findings required under paragraph I.

11 III. Prior to determining that a residential treatment program is the most effective and
12 appropriate level of care, in the least restrictive environment for the child, the court shall consider
13 any available assessments and plans, giving the greatest weight to assessments completed by a
14 licensed psychologist or licensed neuropsychologist with specialized training in the evidence-based
15 treatment of childhood trauma. If the court deviates from such recommendation, the court shall
16 make specific findings of fact regarding the most effective and appropriate level of care, in the least
17 restrictive environment for the child, and that the placement is consistent with child-specific short
18 and long-term goals for the child and the family. When making such findings of fact, the court shall
19 consider all relevant information, including but not limited to:

20 (a) Whether the protocol for the residential treatment program assessment was followed;

21 (b) Whether the school district is meeting the child's educational needs, based on their
22 statutory requirements under RSA 169-B:22, RSA 169-D:18, and RSA 169-C:20;

23 (c) The strengths and specific treatment or service needs of the child and the family;

24 (d) The expected length of stay; and

25 (e) The placement preference of the child and the family.

26 IV. When a child is placed in a residential treatment program or psychiatric residential
27 treatment program:

28 (a) The department shall notify the court promptly of such placement.

29 (b)(1) The court shall review the placement of that child within 60 days after placement,
30 and at every subsequent court review hearing; or

31 (2) Upon a motion by the child, the child's representative, or the child's guardian ad
32 litem establishing reason to believe the ordered residential treatment program is not the most
33 effective and appropriate level of care for the child in the least restrictive environment, the court
34 shall review the placement within 30 days, and every at every subsequent court review hearing.

35 (3) The court may review the placement at any time sua sponte or in response to a
36 motion for review by any party.

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1 V. As long as a child remains in a residential treatment program, the department shall
2 submit evidence to the court and all parties, at least 5 business days prior to every placement review
3 hearing:

4 (a) Demonstrating:

5 (1) Ongoing assessment of the strengths and needs of the child continues to support
6 the determination that the needs of the child cannot be met through placement with a parent, legal
7 guardian, legal custodian, kin or fictive kin caregiver, or in a foster family home;

8 (2) Any recommended psychological or clinical evaluations or assessments have been
9 completed, and if not, the status of those evaluations or assessments;

10 (3) The department has worked with the school district to assure, consistent with
11 the best interest of the child, the child's educational stability;

12 (4) The placement in a residential treatment program provides the most effective
13 and appropriate level of care for the child in the least restrictive environment; and

14 (5) The placement is consistent with the short- and long-term goals for the child as
15 specified in the permanency plan for the child, or as outlined in the family services plan.

16 (b) Documenting:

17 (1) The specific treatment or service needs that will be met for the child in the
18 placement;

19 (2) The length of time the child is expected to need treatment or services, and the
20 treatment basis for the determination of that length of time; and

21 (3) The specific efforts made by the division to prepare the child and prospective
22 placement for the child's return home or to be placed with a fit and willing kin or fictive kin
23 caregiver, a legal guardian, legal custodian, or an adoptive parent, or in a foster family.

24 4 Reallocation of Monies Saved. Any monies saved by the department of health and human
25 services, including the division for children, youth and families and the bureau of children's
26 behavioral health, in preventing the out-of-home placement of children pursuant to this act shall be
27 used by the department to provide services pursuant to RSA 135-F, the system of care for children's
28 mental health, and any other community-based intervention services.

29 5 Classified Positions Established; Facility Certification Team.

30 I. The following classified positions are established in the department of health and human
31 services to support a facility certification team:

32 (a) Three program specialist IV positions (labor grade 23, step 5).

33 (b) One program specialist IV position (labor grade 25, step 5).

34 II. The sum of \$356,000 for the biennium ending June 30, 2025, is hereby appropriated to
35 the department of health and human services for the purpose of funding the positions established in
36 paragraph I. In addition to the appropriation and notwithstanding RSA 14:30-a, the department
37 may accept and expend matching federal funds without prior approval of the fiscal committee of the

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1 general court. The governor is authorized to draw a warrant for the general fund portion of said sum
2 out of any money in the treasury not otherwise appropriated.

3 6 Classified Positions Established; Oversight of Children in Residential Programs.

4 I. The following classified positions are established in the department of health and human
5 services to support the placement of youth in residential facilities:

6 (a) Eight child protective service worker IV (labor grade 24, step 5).

7 (b) Two juvenile probation and parole officer IV (labor grade 24, step 5)

8 II. The sum of \$522,000 for the biennium ending June 30, 2025, is hereby appropriated to
9 the department of health and human services for the purpose of funding the positions established in
10 paragraph I. In addition to the appropriation and notwithstanding RSA 14:30-a, the department
11 may accept and expend matching federal funds without prior approval of the fiscal committee of the
12 general court. The governor is authorized to draw a warrant for the general fund portion of said sum
13 out of any money in the treasury not otherwise appropriated.

14 7 Classified Positions Established; Oversight of Children in Residential Programs.

15 I. The following classified positions are established in the department of health and human
16 services to support placement of youth in residential facilities: 2 attorney III positions (labor grade
17 30, step 5).

18 II. The sum of \$210,000 for the biennium ending June 30, 2025, is hereby appropriated to
19 the department of health and human services for the purpose of funding the positions established in
20 paragraph I. In addition to the appropriation and notwithstanding RSA 14:30-a, the department
21 may accept and expend matching federal funds without prior approval of the fiscal committee of the
22 general court. The governor is authorized to draw a warrant for the general fund portion of said sum
23 out of any money in the treasury not otherwise appropriated.

24 8 Appropriations; Department of Health and Human Services; Facility Certification Travel
25 Costs and Youth Visit Travel Costs.

26 I. The sum of \$266,000 for the fiscal year ending June 30, 2025, is hereby appropriated to
27 the department of health and human services for the purpose of paying for travel costs for facility
28 oversight and certification in order to support implementing the provisions of this act. This
29 appropriation shall be nonlapsing. The governor is authorized to draw a warrant for said sums out
30 of any money in the treasury not otherwise appropriated.

31 II. The sum of \$174,000 for the fiscal year ending June 30, 2025, is hereby appropriated to
32 the department of health and human services for the purpose of paying for travel costs for youth
33 visits in order to support implementing the provisions of this act. This appropriation shall be
34 nonlapsing. The governor is authorized to draw a warrant for said sums out of any money in the
35 treasury not otherwise appropriated.

36 9 Appropriation; Judicial Branch. The sum of \$376,145 for the fiscal year ending June 30, 2025,
37 is hereby appropriated to the judicial branch for the purpose of funding new positions required to

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1 carry out the duties set out in this act. In addition to the appropriation and notwithstanding RSA
2 14:30-a, the judicial branch may accept and expend matching federal funds without prior approval of
3 the fiscal committee of the general court. The governor is authorized to draw a warrant for the
4 general fund portion of said sum out of any money in the treasury not otherwise appropriated.

5 10 Report. The department of health and human services shall provide an interim report on or
6 before November 1, 2024, with an annual report thereafter, on the implementation of this act
7 including, but not limited to, progress on the implementation of this act, reports from certified out-
8 of-state residential facilities, and the progress on the reduction of placement of New Hampshire
9 youth in out-of-state residential facilities, to the chairs of the house children and family law
10 committee, the senate judiciary committee the oversight commission on children's services,
11 established by RSA 21-V:10, the health and human services oversight committee established by RSA
12 126-A:13, and the office of the child advocate.

13 11 Effective Date.

14 I. Sections 5-10 of this act shall take effect July 1, 2024.

15 II. The remainder of this act shall take effect January 1, 2026.

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2024-1313h

AMENDED ANALYSIS

This bill revises criteria for the out-of-home placement of children and increases oversight and certification criteria for out-of-state residential treatment programs beginning January 1, 2026.

The bill also makes appropriations to the department of health and human services and the judicial branch for this purpose and requires the department of health and human services to submit an annual report regarding implementation.