

# An Act

HOUSE BILL 20-1411

BY REPRESENTATIVE(S) Michaelson Jenet and Kraft-Tharp, Arndt, Bird, Buckner, Buentello, Caraveo, Coleman, Cutter, Duran, Esgar, Froelich, Garnett, Gray, Herod, Hooton, Jackson, Jaquez Lewis, Kipp, McCluskie, McLachlan, Mullica, Roberts, Singer, Sirota, Sullivan, Tipper, Titone, Valdez A., Valdez D., Weissman, Will, Woodrow, Young, Becker; also SENATOR(S) Pettersen and Fields, Bridges, Danielson, Fenberg, Foote, Ginal, Gonzales, Hansen, Lee, Moreno, Priola, Story, Tate, Todd, Winter, Zenzinger, Garcia.

CONCERNING THE ALLOCATION OF MONEY THE STATE RECEIVED FROM THE FEDERAL CORONAVIRUS RELIEF FUND FOR BEHAVIORAL HEALTH SERVICES.

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** (1) The general assembly finds that:

(a) On March 27, 2020, the federal government enacted the "Coronavirus Aid, Relief, and Economic Security Act" (CARES Act), Pub.L. 116-136, pursuant to which Colorado received approximately \$1,674,000,000 from the federal coronavirus relief fund to use for necessary

*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

expenditures incurred due to the current COVID-19 public health emergency;

(b) On May 18, 2020, the Colorado governor issued Executive Order 2020 D 070, transferring \$70,000,000 from the state CARES Act fund to the state general fund for eligible expenditures;

(c) The expenditures in this bill are considered an allowable use under the federal CARES Act and are necessary to respond to the COVID-19 public health emergency;

(d) The expenditures in this bill were not accounted for in the Colorado state budget most recently approved as of March 27, 2020, and all of the expenses will be incurred on or before December 30, 2020; and

(e) Any state department that receives expenditures in this bill for community programs and services shall:

(I) Distribute funding in a manner that utilizes existing infrastructure and contracts in the most expedited way possible; and

(II) Consider the needs of underserved populations and communities, including African-American communities, indigenous communities, and other communities of people of color.

(2) The general assembly further finds and declares that:

(a) Due to the unanticipated effects of COVID-19, many treatment providers are unable to admit new patients because of the limited availability of testing and limited space for quarantine and infection control practices. During April 2020, in a national study, more than one-third of behavioral health care appointments were cancelled, rescheduled, or patients were turned away and 62% of behavioral health organizations have had to close at least one program due to COVID-19. Additionally, for all substance use disorder treatment and recovery providers, the need to expand and adjust services has introduced new expenses to achieve those changes. Due to social distancing and isolation requirements and other COVID-19 related issues, further funding focused on sustainability of services is needed to meet the challenges to ensure that programs are able to remain operational.

(b) The need for behavioral health services are compounded by the challenges associated with COVID-19 and the more than half a million individuals who have filed for unemployment. Community mental health centers (CMHCs) continue to shift resources to respond to rapidly changing behavioral health needs, including the impacts of extended social isolation and the emerging economic hardships. CMHCs in Colorado have continued to remain open and operational throughout the stages of the COVID-19 related closures. Many CMHCs operate facilities 24 hours a day, 7 days a week, as well as provide emergency services and other critical services, such as injectable medications and other pharmacy needs.

(c) Given the increase in substance use resulting from COVID-19, substance use brief intervention services are necessary to help individuals examine their relationship with substances prior to the development of a substance use disorder. These services help support individuals who do not have a current need for full treatment admission but need a few sessions to support positive outcomes.

(d) There are school-based clinicians and prevention specialists at every CMHC across Colorado who have been cut off from students since mid-March due to COVID-19. Teachers are reporting an increased need for mental health support for students struggling with schooling at home. In addition, since teachers and social workers cannot be physically present with students, more active mental health services and check-ins may be necessary to support students' well-being and identify potential abuse and neglect at home. With the uncertainty of when schools will reopen this fall and whether summer programs for youth will be available this summer, it is more important than ever that CMHCs receive funding for the technology and tools needed to reach students and their families in community settings.

(e) Co-responder programs have experienced unique challenges related to the COVID-19 pandemic. Health care providers and agencies have shifted services to virtual technology, where possible. Primary responses in some areas have decreased, while most co-responder programs have indicated that secondary responses have increased. Co-responder programs that pair law enforcement officials with clinicians in the same patrol car have incurred increased expenses as clinicians have used their own vehicles to respond due to a desire to maintain social distancing and to avoid transmission of COVID-19 between co-responder teams. This practice is based on information from New York, which experienced high

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contagion rates between co-responder teams. Co-responder programs have added case management support during the COVID-19 pandemic and have incurred unexpected costs associated with client supports, virtual technology infrastructure, personal protective equipment, cleaning supplies, and staffing.

(f) Since the beginning of the COVID-19 pandemic, the Colorado crisis hotline has seen a roughly 30% increase in average monthly calls, or an average of more than 20,000 calls per month, which is the hotline's highest volume of calls per month since the hotline's launch in August 2014. Given this increase in volume, funding is needed to meet immediate staffing needs for Colorado crisis services.

(g) Due to COVID-19, increased housing instability has been coupled with higher rates of relapse from substance use, leading to an unexpected greater need for recovery residences and sober housing. Transitional housing for individuals leaving residential treatment, hospitalization, or the criminal justice system is immediately needed to prevent homelessness.

(h) The mental health crisis among adolescents experiencing, or who know someone experiencing, mental health or substance use disorders is growing at an alarming rate, especially in light of COVID-19. Educators are on the frontlines of this mental health crisis and they need to be equipped with the skills and knowledge necessary to meet new mental health dynamics this fall. Even before the current crisis, the need for mental health education was growing in Colorado because of higher rates of mental illness and suicide. CMHCs will utilize mental health first aid Colorado instructors, school-based clinicians, and the continuum of providers to assist educators and school personnel with needed support as they transition to new learning modalities and ways to stay connected to peers and students who will inevitably have challenges with social isolation and new family dynamics as a result of loss of work, changing the needs of the household and individual trauma due to COVID-19.

(i) Some communities nationwide are already witnessing an increase in the rate of overdose deaths since the onset of the COVID-19 pandemic. In 2019, Colorado experienced an unprecedented 1,062 drug overdose deaths, and fentanyl overdoses doubled between 2018 and 2019. The economic, mental, financial, and social stress coupled with changes in the

drug supply put individuals at higher risk for relapse and overdose. People recovering from COVID-19 may have diminished lung capacity, increasing their risk for overdose. In addition, because of social isolation and social distancing, there may be fewer bystanders of overdose. The availability of naloxone is even more urgent because of these risk factors during the COVID-19 pandemic.

(j) Since the beginning of the COVID-19 pandemic, Colorado's 62 school-based health centers have transitioned to mostly delivering services through telehealth for primary care and behavioral health care, which encompasses mental health and substance use interventions, screening, and referral services. School-based health centers serve communities with the highest needs, including low-income, medicaid, and uninsured populations. These populations became even more vulnerable during the pandemic due to economic insecurity and greater exposure to COVID-19. Children and adolescents in Colorado already face a high risk for suicide, vaping, anxiety, and depression, and the disruption and isolation that have occurred in response to COVID-19 has increased these risks. Because of this, it is even more critical for youth to receive behavioral health supports through telehealth from a school-based health center provider.

(k) As guidance for treatment of substance use has rapidly changed in response to COVID-19, education is key to ensure providers and clinicians understand telehealth, federal and state guidance, billing, and best practices in management of chronic pain and prescribing of opioids for at-risk patients. Currently, weekly virtual provider education sessions are offered on a range of timely topics and additional funding is necessary to expand these provider education sessions to more specialties and topic areas.

(l) According to a national study, only 62.1% of behavioral health organizations believe they can only survive financially for 3 months or less under the current COVID-19 conditions. Since the start of COVID-19, invoices have increased 30% for the center for research, which provides grant writing assistance to small organizations with limited capacity due to the number of COVID-19 related federal and state grant applications and heightened financial need. With staff stretched even more thin due to COVID-19, grant writing assistance is necessary to respond to short deadlines and keep organizations informed of new federal opportunities, bringing more federal funds to the state.

(m) The medication assisted treatment expansion pilot program (pilot program) is available to provide grants to community agencies, office-based practices, behavioral health organizations, and substance use treatment organizations practicing or providing treatment. The COVID-19 response is necessitating costly adjustments for the continuation of the delivery of medicaid assisted treatment to clients in the pilot program, including the need for personal protective equipment and disposable mobile phones to engage patients through telehealth, increased costs for personnel for follow-up visits and check-in calls to patients, increased laboratory costs due to the inability to provide in-office drug testing, and increased medication costs for patients who lost insurance coverage.

(n) The safe2tell program extends beyond the school and provides students and the community with the means to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate law enforcement and public safety agencies and school officials. The stay-at-home public health order resulted in the closure of schools, which took away school support systems for students of all ages, which can lead to increased stress and depression for students. In addition, with students at home more often, they are more at risk for abuse. Whether or not students can expect to attend school in person next year, anxieties among students is expected to be high as students adjust to a new normal. Continued isolation will likely have a negative impact on mental health and potential increase in drug use.

(o) COVID-19 is disproportionately impacting Colorado's African-American and Latino communities. Latinos account for 35% of all positive COVID-19 cases, though they make up less than 22% of Colorado's population. Likewise, African Americans account for 7.6% of positive COVID-19 cases, but make up less than 4% of Colorado's population. Ethnic and racial minorities tend to face greater exposure to racism, discrimination, violence, and poverty, which can influence their mental health. These challenges are often coupled with poor access to mental health care and culturally-based stigma around mental health. African-American and Latino individuals fall behind when it comes to receiving help from a professional. A total of 7.3% of African Americans and 8.4% of Latinos receive support for mental health concerns compared to 13% of white Coloradans.

**SECTION 2. Appropriation.** (1) (a) For the 2019-20 state fiscal year, the following amounts are appropriated to the department of human services for use by the office of behavioral health. The appropriations are from the care subfund in the general fund. The office may use the appropriations for the following purposes:

(I) \$3,530,000 directed to the managed service organizations for substance use disorder treatment and recovery providers for unanticipated expenses related to COVID-19;

(II) \$3,250,000 for community mental health centers for unanticipated expenses related to COVID-19;

(III) \$500,000 directed to the managed service organizations for substance use screening, brief intervention services, referral to treatment, training, and supports;

(IV) \$2,000,000 for services provided to school-aged children and parents by community mental health center school-based clinicians and prevention specialists; and

(V) \$3,800,000 for co-responder programs; Colorado crisis system services; housing assistance, including recovery residences and momentum and transition specialist programs; and treatment for rural communities.

(b) Any money appropriated in this subsection (1) not expended prior to July 1, 2020, is further appropriated to the department of human services for use by the office of behavioral health for the period from July 1, 2020, through December 30, 2020, for the same purpose.

(2) For the 2019-20 state fiscal year, \$250,000 is appropriated to the department of public health and environment. This appropriation is from the care subfund in the general fund. The office may use this appropriation for allocation to mental health first aid for in-person and virtual trainings. Any money appropriated in this subsection (2) not expended prior to July 1, 2020, is further appropriated to the department of public health and environment for the period from July 1, 2020, through December 30, 2020, for the same purpose.

(3) For the 2019-20 state fiscal year, \$1,150,000 is appropriated to

the department of public health and environment. The appropriation is from the care subfund in the general fund. The department may use this appropriation for the opiate antagonist bulk purchase fund, created in section 25-1.5-115, C.R.S., and school-based health centers, as defined in section 25-20.5-502 (1), C.R.S. Any money appropriated in this subsection (3) not expended prior to July 1, 2020, is further appropriated to the department of public health and environment for the period from July 1, 2020, through December 30, 2020, for the same purpose.


(4) For the 2019-20 state fiscal year, \$600,000 is appropriated to the department of higher education for use by the regents of the university of Colorado. The appropriation is from the care subfund in the general fund. The regents may use this appropriation for allocation to the center for research into substance use disorder prevention, treatment, and recovery support strategies for education for health care professionals, grant writing assistance, and personal protective equipment and telehealth supplies for the medication-assisted treatment expansion pilot program created in section 23-21-804, C.R.S. Any money appropriated in this subsection (4) not expended prior to July 1, 2020, is further appropriated to the department of higher education for use by the regents of the university of Colorado for the period from July 1, 2020, through December 30, 2020, for the same purpose.


(5) For the 2019-20 state fiscal year, \$120,000 is appropriated to the department of law. The appropriation is from the care subfund in the general fund. The department may use this appropriation for the safe2tell program created in section 24-31-606, C.R.S. Any money appropriated in this subsection (5) not expended prior to July 1, 2020, is further appropriated to the department of law for the period from July 1, 2020, through December 30, 2020, for the same purpose.

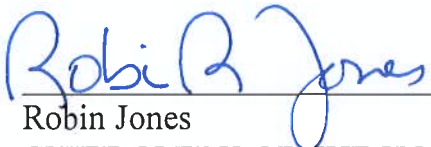
**SECTION 3. Safety clause.** The general assembly hereby finds,



determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

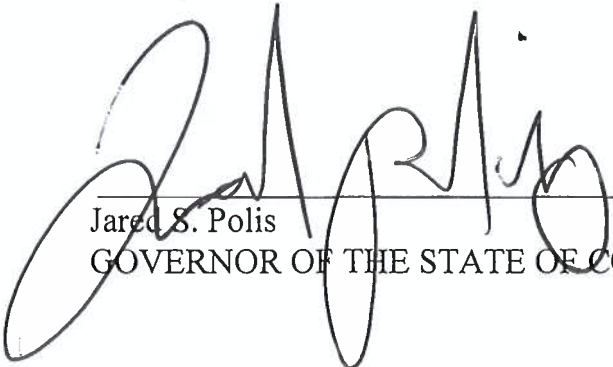
  
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KC Becker  
SPEAKER OF THE HOUSE  
OF REPRESENTATIVES

  
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Leroy M. Garcia  
PRESIDENT OF  
THE SENATE

  
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Robin Jones  
CHIEF CLERK OF THE HOUSE  
OF REPRESENTATIVES

  
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Cindi L. Markwell  
SECRETARY OF  
THE SENATE

APPROVED June 22, 2020 at 9:54 am  
(Date and Time)

  
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Jared S. Polis  
GOVERNOR OF THE STATE OF COLORADO