



Rep. Sara Feigenholtz

## Adopted in House Comm. on Oct 29, 2019

10100SB0391ham001

LRB101 04152 KTG 64199 a

1 AMENDMENT TO SENATE BILL 391

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 391 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Public Aid Code is amended by  
5 changing Section 5-5.23 as follows:

6 (305 ILCS 5/5-5.23)

7 (Text of Section after amendment by P.A. 101-461)

8 Sec. 5-5.23. Children's mental health services.

9 (a) The Department of Healthcare and Family Services, by  
10 rule, shall require the screening and assessment of a child  
11 prior to any Medicaid-funded admission to an inpatient hospital  
12 for psychiatric services to be funded by Medicaid. The  
13 screening and assessment shall include a determination of the  
14 appropriateness and availability of out-patient support  
15 services for necessary treatment. The Department, by rule,  
16 shall establish methods and standards of payment for the

1 screening, assessment, and necessary alternative support  
2 services.

3 (b) The Department of Healthcare and Family Services, to  
4 the extent allowable under federal law, shall secure federal  
5 financial participation for Individual Care Grant expenditures  
6 made by the Department of Healthcare and Family Services for  
7 the Medicaid optional service authorized under Section 1905(h)  
8 of the federal Social Security Act, pursuant to the provisions  
9 of Section 7.1 of the Mental Health and Developmental  
10 Disabilities Administrative Act. The Department of Healthcare  
11 and Family Services may exercise the authority under this  
12 Section as is necessary to administer Individual Care Grants as  
13 authorized under Section 7.1 of the Mental Health and  
14 Developmental Disabilities Administrative Act.

15 (c) The Department of Healthcare and Family Services shall  
16 work collaboratively with the Department of Children and Family  
17 Services and the Division of Mental Health of the Department of  
18 Human Services to implement subsections (a) and (b).

19 (d) On and after July 1, 2012, the Department shall reduce  
20 any rate of reimbursement for services or other payments or  
21 alter any methodologies authorized by this Code to reduce any  
22 rate of reimbursement for services or other payments in  
23 accordance with Section 5-5e.

24 (e) All rights, powers, duties, and responsibilities  
25 currently exercised by the Department of Human Services related  
26 to the Individual Care Grant program are transferred to the

1 Department of Healthcare and Family Services with the transfer  
2 and transition of the Individual Care Grant program to the  
3 Department of Healthcare and Family Services to be completed  
4 and implemented within 6 months after the effective date of  
5 this amendatory Act of the 99th General Assembly. For the  
6 purposes of the Successor Agency Act, the Department of  
7 Healthcare and Family Services is declared to be the successor  
8 agency of the Department of Human Services, but only with  
9 respect to the functions of the Department of Human Services  
10 that are transferred to the Department of Healthcare and Family  
11 Services under this amendatory Act of the 99th General  
12 Assembly.

13 (1) Each act done by the Department of Healthcare and  
14 Family Services in exercise of the transferred powers,  
15 duties, rights, and responsibilities shall have the same  
16 legal effect as if done by the Department of Human Services  
17 or its offices.

18 (2) Any rules of the Department of Human Services that  
19 relate to the functions and programs transferred by this  
20 amendatory Act of the 99th General Assembly that are in  
21 full force on the effective date of this amendatory Act of  
22 the 99th General Assembly shall become the rules of the  
23 Department of Healthcare and Family Services. All rules  
24 transferred under this amendatory Act of the 99th General  
25 Assembly are hereby amended such that the term "Department"  
26 shall be defined as the Department of Healthcare and Family

1 Services and all references to the "Secretary" shall be  
2 changed to the "Director of Healthcare and Family Services  
3 or his or her designee". As soon as practicable hereafter,  
4 the Department of Healthcare and Family Services shall  
5 revise and clarify the rules to reflect the transfer of  
6 rights, powers, duties, and responsibilities affected by  
7 this amendatory Act of the 99th General Assembly, using the  
8 procedures for recodification of rules available under the  
9 Illinois Administrative Procedure Act, except that  
10 existing title, part, and section numbering for the  
11 affected rules may be retained. The Department of  
12 Healthcare and Family Services, consistent with its  
13 authority to do so as granted by this amendatory Act of the  
14 99th General Assembly, shall propose and adopt any other  
15 rules under the Illinois Administrative Procedure Act as  
16 necessary to administer the Individual Care Grant program.  
17 These rules may include, but are not limited to, the  
18 application process and eligibility requirements for  
19 recipients.

20 (3) All unexpended appropriations and balances and  
21 other funds available for use in connection with any  
22 functions of the Individual Care Grant program shall be  
23 transferred for the use of the Department of Healthcare and  
24 Family Services to operate the Individual Care Grant  
25 program. Unexpended balances shall be expended only for the  
26 purpose for which the appropriation was originally made.

1 The Department of Healthcare and Family Services shall  
2 exercise all rights, powers, duties, and responsibilities  
3 for operation of the Individual Care Grant program.

4 (4) Existing personnel and positions of the Department  
5 of Human Services pertaining to the administration of the  
6 Individual Care Grant program shall be transferred to the  
7 Department of Healthcare and Family Services with the  
8 transfer and transition of the Individual Care Grant  
9 program to the Department of Healthcare and Family  
10 Services. The status and rights of Department of Human  
11 Services employees engaged in the performance of the  
12 functions of the Individual Care Grant program shall not be  
13 affected by this amendatory Act of the 99th General  
14 Assembly. The rights of the employees, the State of  
15 Illinois, and its agencies under the Personnel Code and  
16 applicable collective bargaining agreements or under any  
17 pension, retirement, or annuity plan shall not be affected  
18 by this amendatory Act of the 99th General Assembly. All  
19 transferred employees who are members of collective  
20 bargaining units shall retain their seniority, continuous  
21 service, salary, and accrued benefits.

22 (5) All books, records, papers, documents, property  
23 (real and personal), contracts, and pending business  
24 pertaining to the powers, duties, rights, and  
25 responsibilities related to the functions of the  
26 Individual Care Grant program, including, but not limited

1 to, material in electronic or magnetic format and necessary  
2 computer hardware and software, shall be delivered to the  
3 Department of Healthcare and Family Services; provided,  
4 however, that the delivery of this information shall not  
5 violate any applicable confidentiality constraints.

6 (6) Whenever reports or notices are now required to be  
7 made or given or papers or documents furnished or served by  
8 any person to or upon the Department of Human Services in  
9 connection with any of the functions transferred by this  
10 amendatory Act of the 99th General Assembly, the same shall  
11 be made, given, furnished, or served in the same manner to  
12 or upon the Department of Healthcare and Family Services.

13 (7) This amendatory Act of the 99th General Assembly  
14 shall not affect any act done, ratified, or canceled or any  
15 right occurring or established or any action or proceeding  
16 had or commenced in an administrative, civil, or criminal  
17 cause regarding the Department of Human Services before the  
18 effective date of this amendatory Act of the 99th General  
19 Assembly; and those actions or proceedings may be defended,  
20 prosecuted, and continued by the Department of Human  
21 Services.

22 (f) (Blank).

23 (g) Family Support Program. The Department of Healthcare  
24 and Family Services shall restructure the Family Support  
25 Program, formerly known as the Individual Care Grant program,  
26 to enable early treatment of youth, emerging adults, and

1 transition-age adults with a serious mental illness or serious  
2 emotional disturbance.

3 (1) As used in this subsection and in subsections (h)  
4 through (s):

5 (A) "Youth" means a person under the age of 18.

6 (B) "Emerging adult" means a person who is 18  
7 through 20 years of age.

8 (C) "Transition-age adult" means a person who is 21  
9 through 25 years of age.

10 (2) The Department shall amend 89 Ill. Adm. Code 139 in  
11 accordance with this Section and consistent with the  
12 timelines outlined in this Section.

13 (3) Implementation of any amended requirements shall  
14 be completed within 8 months of the adoption of any  
15 amendment to 89 Ill. Adm. Code 139 that is consistent with  
16 the provisions of this Section.

17 (4) To align the Family Support Program with the  
18 Medicaid system of care, the services available to a youth,  
19 emerging adult, or transition-age adult through the Family  
20 Support Program shall include all Medicaid community-based  
21 mental health treatment services and all Family Support  
22 Program services included under 89 Ill. Adm. Code 139. No  
23 person receiving services through the Family Support  
24 Program or the Specialized Family Support Program shall  
25 become a Medicaid enrollee unless Medicaid eligibility  
26 criteria are met and the person is enrolled in Medicaid. No

1 part of this Section creates an entitlement to services  
2 through the Family Support Program, the Specialized Family  
3 Support Program, or the Medicaid program.

4 (5) The Family Support Program shall align with the  
5 following system of care principles:

6 (A) Treatment and support services shall be based  
7 on the results of an integrated behavioral health  
8 assessment and treatment plan using an instrument  
9 approved by the Department of Healthcare and Family  
10 Services.

11 (B) Strong interagency collaboration between all  
12 State agencies the parent or legal guardian is involved  
13 with for services, including the Department of  
14 Healthcare and Family Services, the Department of  
15 Human Services, the Department of Children and Family  
16 Services, the Department of Juvenile Justice, and the  
17 Illinois State Board of Education.

18 (C) Individualized, strengths-based practices and  
19 trauma-informed treatment approaches.

20 (D) For a youth, full participation of the parent  
21 or legal guardian at all levels of treatment through a  
22 process that is family-centered and youth-focused. The  
23 process shall include consideration of the services  
24 and supports the parent, legal guardian, or caregiver  
25 requires for family stabilization, and shall connect  
26 such person or persons to services based on available



1 insurance coverage.

2 (h) Eligibility for the Family Support Program.  
3 Eligibility criteria established under 89 Ill. Adm. Code 139  
4 for the Family Support Program shall include the following:

5 (1) Individuals applying to the program must be under  
6 the age of 26.

7 (2) Requirements for parental or legal guardian  
8 involvement are applicable to youth and to emerging adults  
9 or transition-age adults who have a guardian appointed  
10 under Article XIa of the Probate Act.

11 (3) Youth, emerging adults, and transition-age adults  
12 are eligible for services under the Family Support Program  
13 upon their third inpatient admission to a hospital or  
14 similar treatment facility for the primary purpose of  
15 psychiatric treatment within the most recent 12 months and  
16 are hospitalized for the purpose of psychiatric treatment.

17 (4) School participation for emerging adults applying  
18 for services under the Family Support Program may be waived  
19 by request of the individual at the sole discretion of the  
20 Department of Healthcare and Family Services.

21 (5) School participation is not applicable to  
22 transition-age adults.

23 (i) Notification of Family Support Program and Specialized  
24 Family Support Program services.

25 (1) Within 12 months after the effective date of this  
26 amendatory Act of the 101st General Assembly, the

1 Department of Healthcare and Family Services, with  
2 meaningful stakeholder input through a working group of  
3 psychiatric hospitals, Family Support Program providers,  
4 family support organizations, the Community and  
5 Residential Services Authority, a statewide association  
6 representing a majority of hospitals, a statewide  
7 association representing physicians, and foster care  
8 alumni advocates, shall establish a clear process by which  
9 a youth's or emerging adult's parents, guardian, or  
10 caregiver, or the emerging adult or transition-age adult,  
11 is identified, notified, and educated about the Family  
12 Support Program and the Specialized Family Support Program  
13 upon a first psychiatric inpatient hospital admission, and  
14 any following psychiatric inpatient admissions.  
15 Notification and education may take place through a Family  
16 Support Program coordinator, a mobile crisis response  
17 provider, a Comprehensive Community Based Youth Services  
18 provider, the Community and Residential Services  
19 Authority, or any other designated provider or coordinator  
20 identified by the Department of Healthcare and Family  
21 Services. In developing this process, the Department of  
22 Healthcare and Family Services and the working group shall  
23 take into account the unique needs of emerging adults and  
24 transition-age adults without parental involvement who are  
25 eligible for services under the Family Support Program. The  
26 Department of Healthcare and Family Services and the

1 working group shall ensure the appropriate provider or  
2 coordinator is required to assist individuals and their  
3 parents, guardians, or caregivers, as applicable, in the  
4 completion of the application or referral process for the  
5 Family Support Program or the Specialized Family Support  
6 Program.

7 (2) Upon a youth's, emerging adult's or transition-age  
8 adult's second psychiatric inpatient hospital admission,  
9 prior to hospital discharge, the hospital must, if it is  
10 aware of the patient's prior psychiatric inpatient  
11 hospital admission, ensure that the youth's parents,  
12 guardian, or caregiver, or the emerging adult or  
13 transition-age adult, has ~~have~~ been notified of the Family  
14 Support Program and the Specialized Family Support Program  
15 ~~prior to hospital discharge~~.

16 (3) Psychiatric lockout as last resort.

17 (A) Prior to referring any youth to the Department  
18 of Children and Family Services for the filing of a  
19 petition in accordance with subparagraph (c) of  
20 paragraph (1) of Section 2-4 of the Juvenile Court Act  
21 of 1987 alleging that the youth is dependent because  
22 the youth was left in a psychiatric hospital beyond  
23 medical necessity, the hospital shall attempt to  
24 contact ~~educate~~ the youth and the youth's parents,  
25 guardian, or caregiver about the Family Support  
26 Program and the Specialized Family Support Program and

1 shall assist with connections to the designated Family  
2 Support Program coordinator in the service area by  
3 providing educational materials developed by the  
4 Department of Healthcare and Family Services. Once  
5 this process has begun, any such youth shall be  
6 considered a youth for whom an application for the  
7 Family Support Program is pending with the Department  
8 of Healthcare and Family Services or an active  
9 application for the Family Support Program was being  
10 reviewed by the Department for the purposes of  
11 subsection (a) of Section 2-4b ~~subparagraph (b) of~~  
12 ~~paragraph (1) of Section 2-4~~ of the Juvenile Court Act  
13 of 1987, or for the purposes of subsection (a) of  
14 Section 5-711 of the Juvenile Court Act of 1987.

15 (B) No state agency or hospital shall coach a  
16 parent or guardian of a youth in a psychiatric hospital  
17 inpatient unit to lock out or otherwise relinquish  
18 custody of a youth to the Department of Children and  
19 Family Services for the sole purpose of obtaining  
20 necessary mental health treatment for the youth. In the  
21 absence of abuse or neglect, a psychiatric lockout or  
22 custody relinquishment to the Department of Children  
23 and Family Services shall only be considered as the  
24 option of last resort. Nothing in this Section shall  
25 prohibit discussion of medical treatment options or a  
26 referral to legal counsel.

1           (4) Development of new Family Support Program  
2 services.

3           (A) Development of specialized therapeutic  
4 residential treatment for youth and emerging adults  
5 with high-acuity mental health conditions. Through a  
6 working group led by the Department of Healthcare and  
7 Family Services that includes the Department of  
8 Children and Family Services and residential treatment  
9 providers for youth and emerging adults, the  
10 Department of Healthcare and Family Services, within  
11 12 months after the effective date of this amendatory  
12 Act of the 101st General Assembly, shall develop a plan  
13 for the development of specialized therapeutic  
14 residential treatment beds similar to a qualified  
15 residential treatment program, as defined in the  
16 federal Family First Prevention Services Act, for  
17 youth in the Family Support Program with high-acuity  
18 mental health needs. The Department of Healthcare and  
19 Family Services and the Department of Children and  
20 Family Services shall work together to maximize  
21 federal funding through Medicaid and Title IV-E of the  
22 Social Security Act in the development and  
23 implementation of this plan.

24           (B) Using the Department of Children and Family  
25 Services' beyond medical necessity data over the last 5  
26 years and any other relevant, available data, the

1 Department of Healthcare and Family Services shall  
2 assess the estimated number of these specialized  
3 high-acuity residential treatment beds that are needed  
4 in each region of the State based on the number of  
5 youth remaining in psychiatric hospitals beyond  
6 medical necessity and the number of youth placed  
7 out-of-state who need this level of care. The  
8 Department of Healthcare and Family Services shall  
9 report the results of this assessment to the General  
10 Assembly by no later than December 31, 2020.

11 (C) Development of an age-appropriate therapeutic  
12 residential treatment model for emerging adults and  
13 transition-age adults. Within 30 months after the  
14 effective date of this amendatory Act of the 101st  
15 General Assembly, the Department of Healthcare and  
16 Family Services, in partnership with the Department of  
17 Human Services' Division of Mental Health and with  
18 significant and meaningful stakeholder input through a  
19 working group of providers and other stakeholders,  
20 shall develop a supportive housing model for emerging  
21 adults and transition-age adults receiving services  
22 through the Family Support Program who need  
23 residential treatment and support to enable recovery.  
24 Such a model shall be age-appropriate and shall allow  
25 the residential component of the model to be in a  
26 community-based setting combined with intensive

1 community-based mental health services.

2 (j) Workgroup to develop a plan for improving access to  
3 substance use treatment. The Department of Healthcare and  
4 Family Services and the Department of Human Services' Division  
5 of Substance Use Prevention and Recovery shall co-lead a  
6 working group that includes Family Support Program providers,  
7 family support organizations, and other stakeholders over a  
8 12-month period beginning in the first quarter of calendar year  
9 2020 to develop a plan for increasing access to substance use  
10 treatment services for youth, emerging adults, and  
11 transition-age adults who are eligible for Family Support  
12 Program services.

13 (k) Appropriation. Implementation of this Section shall be  
14 limited by the State's annual appropriation to the Family  
15 Support Program. Spending within the Family Support Program  
16 appropriation shall be further limited for the new Family  
17 Support Program services to be developed accordingly:

18 (1) Targeted use of specialized therapeutic  
19 residential treatment for youth and emerging adults with  
20 high-acuity mental health conditions through appropriation  
21 limitation. No more than 12% of all annual Family Support  
22 Program funds shall be spent on this level of care in any  
23 given state fiscal year.

24 (2) Targeted use of residential treatment model  
25 established for emerging adults and transition-age adults  
26 through appropriation limitation. No more than one-quarter

1 of all annual Family Support Program funds shall be spent  
2 on this level of care in any given state fiscal year.

3 (1) Exhausting third party insurance coverage first.

4 (A) A parent, legal guardian, emerging adult, or  
5 transition-age adult with private insurance coverage shall  
6 work with the Department of Healthcare and Family Services,  
7 or its designee, to identify insurance coverage for any and  
8 all benefits covered by their plan. If insurance  
9 cost-sharing by any method for treatment is  
10 cost-prohibitive for the parent, legal guardian, emerging  
11 adult, or transition-age adult, Family Support Program  
12 funds may be applied as a payer of last resort toward  
13 insurance cost-sharing for purposes of using private  
14 insurance coverage to the fullest extent for the  
15 recommended treatment. If the Department, or its agent, has  
16 a concern relating to the parent's, legal guardian's,  
17 emerging adult's, or transition-age adult's insurer's  
18 compliance with Illinois or federal insurance requirements  
19 relating to the coverage of mental health or substance use  
20 disorders, it shall refer all relevant information to the  
21 applicable regulatory authority.

22 (B) The Department of Healthcare and Family Services  
23 shall use Medicaid funds first for an individual who has  
24 Medicaid coverage if the treatment or service recommended  
25 using an integrated behavioral health assessment and  
26 treatment plan (using the instrument approved by the



1 Department of Healthcare and Family Services) is covered by  
2 Medicaid.

3 (C) If private or public insurance coverage does not  
4 cover the needed treatment or service, Family Support  
5 Program funds shall be used to cover the services offered  
6 through the Family Support Program.

7 (m) Service authorization. A youth, emerging adult, or  
8 transition-age adult enrolled in the Family Support Program or  
9 the Specialized Family Support Program shall be eligible to  
10 receive a mental health treatment service covered by the  
11 applicable program if the medical necessity criteria  
12 established by the Department of Healthcare and Family Services  
13 are met.

14 (n) Streamlined application. The Department of Healthcare  
15 and Family Services shall revise the Family Support Program  
16 applications and the application process to reflect the changes  
17 made to this Section by this amendatory Act of the 101st  
18 General Assembly within 8 months after the adoption of any  
19 amendments to 89 Ill. Adm. Code 139.

20 (o) Study of reimbursement policies during planned and  
21 unplanned absences of youth and emerging adults in Family  
22 Support Program residential treatment settings. The Department  
23 of Healthcare and Family Services shall undertake a study of  
24 those standards of the Department of Children and Family  
25 Services and other states for reimbursement of residential  
26 treatment during planned and unplanned absences to determine if

1 reimbursing residential providers for such unplanned absences  
2 positively impacts the availability of residential treatment  
3 for youth and emerging adults. The Department of Healthcare and  
4 Family Services shall begin the study on July 1, 2019 and shall  
5 report its findings and the results of the study to the General  
6 Assembly, along with any recommendations for or against  
7 adopting a similar policy, by December 31, 2020.

8 (p) Public awareness and educational campaign for all  
9 relevant providers. The Department of Healthcare and Family  
10 Services shall engage in a public awareness campaign to educate  
11 hospitals with psychiatric units, crisis response providers  
12 such as Screening, Assessment and Support Services providers  
13 and Comprehensive Community Based Youth Services agencies,  
14 schools, and other community institutions and providers across  
15 Illinois on the changes made by this amendatory Act of the  
16 101st General Assembly to the Family Support Program. The  
17 Department of Healthcare and Family Services shall produce  
18 written materials geared for the appropriate target audience,  
19 develop webinars, and conduct outreach visits over a 12-month  
20 period beginning after implementation of the changes made to  
21 this Section by this amendatory Act of the 101st General  
22 Assembly.

23 (q) Maximizing federal matching funds for the Family  
24 Support Program and the Specialized Family Support Program. The  
25 Department of Healthcare and Family Services, as the sole  
26 Medicaid State agency, shall seek approval from the federal

1 Centers for Medicare and Medicaid Services within 12 months  
2 after the effective date of this amendatory Act of the 101st  
3 General Assembly to draw additional federal Medicaid matching  
4 funds for individuals served under the Family Support Program  
5 or the Specialized Family Support Program who are not covered  
6 by the Department's medical assistance programs. The  
7 Department of Children and Family Services, as the State agency  
8 responsible for administering federal funds pursuant to Title  
9 IV-E of the Social Security Act, shall submit a State Plan to  
10 the federal government within 12 months after the effective  
11 date of this amendatory Act of the 101st General Assembly to  
12 maximize the use of federal Title IV-E prevention funds through  
13 the federal Family First Prevention Services Act, to provide  
14 mental health and substance use disorder treatment services and  
15 supports, including, but not limited to, the provision of  
16 short-term crisis and transition beds post-hospitalization for  
17 youth who are at imminent risk of entering Illinois' youth  
18 welfare system solely due to the inability to access mental  
19 health or substance use treatment services.

20 (r) Outcomes and data reported annually to the General  
21 Assembly. Beginning in 2021, the Department of Healthcare and  
22 Family Services shall submit an annual report to the General  
23 Assembly that includes the following information with respect  
24 to the time period covered by the report:

25 (1) The number and ages of youth, emerging adults, and  
26 transition-age adults who requested services under the

1 Family Support Program and the Specialized Family Support  
2 Program and the services received.

3 (2) The number and ages of youth, emerging adults, and  
4 transition-age adults who requested services under the  
5 Specialized Family Support Program who were eligible for  
6 services based on the number of hospitalizations.

7 (3) The number and ages of youth, emerging adults, and  
8 transition-age adults who applied for Family Support  
9 Program or Specialized Family Support Program services but  
10 did not receive any services.

11 (s) Rulemaking authority. Unless a timeline is otherwise  
12 specified in a subsection, if amendments to 89 Ill. Adm. Code  
13 139 are needed for implementation of this Section, such  
14 amendments shall be filed by the Department of Healthcare and  
15 Family Services within one year after the effective date of  
16 this amendatory Act of the 101st General Assembly.

17 (Source: P.A. 101-461, eff. 1-1-20.)

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law."