

SENATE BILL 1098

By Dickerson

AN ACT to amend Tennessee Code Annotated, Title 49,
relative to allocation of per pupil funding to
residential mental health facilities.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-3-370, is amended by deleting the section and substituting instead the following:

(a) An LEA shall allocate funding in an amount equal to the per pupil state and local funds received by the LEA to a state-licensed residential mental health facility on a prorated daily basis for the student's length of stay if:

(1) The residential mental health facility operates as a Category I special purpose school pursuant to state board of education rules and regulations and provides a minimum of sixteen and one-half (16 1/2) hours per week of educational instructional services to the students admitted pursuant to this part;

(2) The student admitted to the residential mental health facility was enrolled in and attended a public school in this state for the one (1) full school year immediately preceding the student's admission to the mental health facility and is enrolled in a public school in this state at the time of admission to the mental health facility; and

(3) The student is admitted to the residential mental health facility under a signed, written order of a qualified physician licensed to practice medicine in this state, the order being based upon medical necessity. An LEA may require a physician attestation form including the patient's name, the dates of admission,

and the signature of the physician to be submitted to the LEA prior to disbursement of funds to the facility.

(b) An LEA shall allocate funding in an amount equal to the per pupil state and local funds received by the LEA to an out-of-state residential mental health facility on a prorated daily basis for the student's length of stay if:

(1) The out-of-state residential mental health facility provides a minimum of sixteen and one-half (16 1/2) hours per week of educational instructional services to admitted students, and:

(A) The facility complies with all applicable health and safety laws, regulations, and codes of the state and locality in which it is located;

(B) All teachers at the facility are licensed by the licensing authority of the state in which the residential mental health facility is located, and at least one (1) teacher has an endorsement in special education or a certification that the department of education determines to be equivalent to an endorsement in special education in this state, who is available to provide services for admitted students; and

(C) The facility reports the attendance of each admitted student to the public school in which the student is enrolled;

(2) The student admitted to the out-of-state residential mental health facility was enrolled in and attended a public school in this state for the one (1) full school year immediately preceding the student's admission to the out-of-state mental health facility and is enrolled in a public school in this state at the time of admission to the out-of-state mental health facility; and

(3) The student is admitted to the out-of-state residential mental health facility under a signed, written order of a qualified physician licensed to practice medicine, the order being based upon medical necessity. An LEA may require a physician attestation form including the patient's name, the dates of admission,

and the signature of the physician to be submitted to the LEA prior to disbursement of funds to the facility.

(c) The department of education shall approve an out-of-state residential mental health facility that meets the requirements of subdivision (b)(1).

(d) The funding specified in subsections (a) and (b) is in addition to funds allocated pursuant to federal law and regulation, including, but not limited to, Title I and ESEA funds.

(e) This part must not be used or construed to circumvent the requirements of the Individuals with Disabilities Education Act (20 U.S.C. § 1400 et seq.).

(f) The state board of education shall promulgate rules and regulations establishing the allocation of funding as provided in this section. The rules and regulations must be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect July 1, 2019, the public welfare requiring it, and applies to students admitted to an out-of-state mental health facility for the 2019-2020 school year and each school year thereafter.