

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Child welfare-QRTP accreditation assistance program.

Sponsored by: Joint Labor, Health & Social Services Interim
Committee

A BILL

for

1 AN ACT relating to child welfare; making legislative
2 findings; authorizing the department of family service to
3 operate a program to support care providers' accreditation
4 as qualified residential treatment programs under the
5 federal Family First Act; authorizing the use of a
6 nonprofit entity to operate the program as specified;
7 authorizing payments to be made on behalf of individual
8 care provider organizations; placing limits on payments;
9 and providing for an effective date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

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STAFF COMMENT

This legislation would provide financial and other assistance to help organizations obtain and maintain qualified residential treatment program (QRTP) accreditation under the Family First Act. This legislation is based, loosely, off of Wyoming's national certification program for Wyoming teachers. That program authorizes the use of a nonprofit organization to make direct payments on behalf of individual teachers to organizations that provide national board teacher certification. See W.S. 21-71-501.

Because this bill authorizes the expenditure of state funds in a way that directly benefits private organizations, the bill implicates Wyoming's prohibition against making state donations to or in aid of any individual, association or corporation. See Wyo. Constitution, Art. 16 § 6. The Legislature may only spend public funds for a public purpose and is prohibited from making donations to individuals and private entities. However, expenditures that flow to individuals are permissible where there is a sufficient public purpose. Courts have given significant, but not unlimited, discretion to a Legislature's determination as to what is a sufficient public purpose. What constitutes a sufficient public purpose is a fact-specific determination. If the facts reveal that the primary object is to serve a public purpose, it is immaterial that private ends may be incidentally advanced.

In light of this law, this bill contains legislative findings that are intended to demonstrate the Legislature's conclusion that supporting QRTP accreditation serves a compelling state interest and is primarily intended to advance public health and safety interests. The incidental benefits to organizations who receive support are secondary to the Legislature's primary goal of maximizing the availability and

1 quality of services available to Wyoming's
2 children and their families.

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5 **Section 1.** The legislature finds:

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7 (a) That there are compelling health, safety and
8 financial benefits which will result from implementation of
9 the Family First and Prevention Services Act, Public Law
10 115-123. The Act enhances the state's child welfare
11 interests by augmenting therapeutic services that promote
12 family reunification and that avoid placement of a child
13 outside the child's home. Specifically, care organizations
14 that become and remain accredited under the Act as
15 Qualified Residential Treatment Programs (Q RTP) qualify for
16 federal funding and can provide children whose needs cannot
17 be met in a family setting with high quality residential
18 treatment services that help them transition back to family
19 care. Q RTP services are highly beneficial to the wellbeing
20 of Wyoming's children, to the reunification and health of
21 Wyoming's families and offer a fiscally advantageous way
22 for Wyoming to meet its child welfare obligations.

23

1 (b) The costs and technical demands of becoming Q RTP
2 accredited and maintaining Q RTP accreditation are
3 significant. Without the availability of technical and
4 financial support, there is a significant risk that an
5 insufficient number of Wyoming's care provider
6 organizations will be Q RTP accredited and Wyoming's
7 children and families will not receive the services that
8 are available through the Family First and Prevention
9 Services Act.

10
11 **Section 2.**

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13 (a) Upon legislative appropriation for the operation
14 of the program, the department of family services shall
15 promulgate reasonable rules necessary for the creation of a
16 program to provide financial and other support to
17 organizations that become accredited as qualified
18 residential treatment programs (Q RTP) under the Family
19 First and Prevention Services Act, Public Law 115-123, and
20 to organizations that must maintain that accreditation. In
21 operating the program, the department may enter into an
22 agreement with a nonprofit entity to establish and operate

1 the program and the nonprofit entity or the department
2 shall:

3

4 (i) Provide technical assistance to organizations
5 that engage in the process of becoming QRTP accredited or
6 who must maintain QRTP accreditation;

7

8 (ii) Provide payments directly to a QRTP
9 accrediting body on behalf of an organization that becomes
10 QRTP accredited or is seeking to maintain QRTP
11 accreditation but payments shall not exceed fifty percent
12 (50%) of the fees charged by the accrediting body for QRTP
13 accreditation;

14

15 (iii) Pursuant to standards adopted by the
16 department, provide payments directly to other persons on
17 behalf of an organization that becomes QRTP accredited or
18 who seeks continuing QRTP accreditation for up to fifty
19 percent (50%) of the value of services rendered by those
20 persons that were reasonably necessary to obtain
21 accreditation or to retain accreditation.

22

1 (b) Rules promulgated pursuant to subsection (a) of
2 this section shall provide reasonable eligibility standards
3 for the organizations who apply to receive program benefits
4 and shall provide a method for applying for program
5 benefits. The rules also shall define circumstances under
6 which an organization receiving benefits shall be required
7 to repay those benefits, including circumstances where the
8 organization does not satisfy its financial obligations,
9 does not become QRTP accredited, does not maintain QRTP
10 accreditation for a reasonable period of time, or does not
11 provide an established quantity of relevant services in
12 Wyoming.

13

14 (c) The legislature may appropriate funds to the
15 department of family services to implement the program
16 authorized by subsection (a) of this section. No funds
17 appropriated by the legislature shall be distributed by the
18 department to any nonprofit entity with whom the department
19 has entered into an agreement to operate a program until
20 the nonprofit entity has contributed to the program an
21 amount equal to any amounts that it will distribute as
22 direct payments under paragraphs (a)(ii) and (a)(iii) of
23 this section. The department shall ensure that state funds

1 and funds the nonprofit entity provides to the program
2 shall be accounted for separately.

3

4 (d) Any agreement entered into between the department
5 of family services and any nonprofit entity shall require
6 annual reporting by the nonprofit entity to the department.

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8 (e) No program shall be operated under the authority
9 provided by this section until the program is reviewed by
10 the attorney general's office for compliance with Wyoming
11 law.

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13 **Section 3.** There is appropriated **XXXXXX Dollars**
14 from the general fund to the department of family services
15 for the purpose of operating the program authorized in
16 section 2 of this act and providing funds to any non-profit
17 entity retained pursuant to section 2 of this act. This
18 appropriation shall be for the period beginning with the
19 effective date of this act and ending June 30, 2022. This
20 appropriation shall not be transferred or expended for any
21 other purpose and any unexpended, unobligated funds
22 remaining from this appropriation shall revert as provided
23 by law on June 30, 2022.

1

2 **Section 4.** This act is effective immediately
3 upon completion of all acts necessary for a bill to become
4 law as provided by Article 4, Section 8 of the Wyoming
5 Constitution.

6

7 (END)