SENATE COMMITTEE ON EDUCATION
Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No:	SB 1113		
Author:	Beall		
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Urgency:	No	**Fiscal:**	Yes
Consultant:	Lynn Lorber		

NOTE: This bill has been referred to the Committees on Education and Health. A "do pass" motion should include referral to the Committee on Health.

Subject: Pupil health: mental health

SUMMARY

This bill authorizes local educational agencies (LEAs) to enter into partnerships, as specified, with county mental health plans for the provision of Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) mental health services and to expand the allowable uses of specified mental health funds, and requires the California Department of Education (CDE) to expand its reporting system for mental health services to include academic performance and other measures.

BACKGROUND

Existing law requires:

1) The Superintendent of Public Instruction (SPI) to ensure that student and program performance results are monitored at the state and local levels by evaluating student performance against key performance indicators.

2) The SPI, as part of state monitoring and enforcement, to use quantifiable indicators, and qualitative indicators as needed, to adequately measure performance in the indicators established by the United States Secretary of Education in the priority areas described in #1 above.
(Education Code § 56600.6)

Existing law establishes the Medi-Cal EPSDT program for eligible people under 21 years of age to provide periodic screenings to determine health care needs and based upon the identified health care need and diagnosis, treatment services are provided. Existing law provides that EPSDT services are to be administered through local county mental health plans under contract with the State Department of Health Care Services. (Welfare & Institutions Code § 14700, et seq.)

ANALYSIS

This bill authorizes LEAs to enter into partnerships, as specified, with county mental health plans for the provision of EPSDT mental health services and to expand the allowable uses of specified mental health funds, and requires the CDE to expand its

reporting system for mental health services to include academic performance and other measures. Specifically, this bill:

1) Authorizes a local educational agency (LEA) to enter into a partnership that includes all of the following:

    a) An agreement between the county mental health plan and the LEA that establishes a Medi-Cal mental health provider that is county operated or county contracted, for the provision of mental health services to students of the LEA and in which there are provisions for the delivery of campus-based mental health services through qualified mental health clinicians to provide on-campus support to identify a student not in special education who a teacher believes may require those services and, with parental consent, to provide mental health services to those students.

    b) The county mental health plan and the LEA use designated governmental funds as required match for eligible Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) reimbursement for services provided to students enrolled in Medi-Cal, for mental health service costs for non-Medi-Cal enrolled students in special education, and for students not part of special education if the services are provided by a provider pursuant to the agreement described above.

    c) The county mental health plan provider bills non-Medi-Cal insurers for services to students with health insurance for non-IEP-related covered services, and the relevant insurer reimburses the provider for these services at the usual rates paid for out of network mental health services.

    d) The LEA, with permission of the student's parent, provides the county mental health plan provider with the information of the health insurance carrier for each student.

    e) The LEA covers the costs of mental health provider services not reimbursed by governmental funds or from insurers in the event that mental health service costs exceed the agreed upon funding outlined in the partnership agreement between the county mental health plan and the LEA following a year-end cost reconciliation process, and in the event that the LEA does not elect to provide the services through other means.

    f) The county mental health plan participates in any performance outcome system established by the State Department of Health Care Services or the Mental Health Services Oversight and Accountability Commission to measure results of services provided under the partnership agreement between the county mental health plan and the LEA.

    g) The LEA participates in any performance system established by the California Department of Education to measure performance of special education mental health services and other mental health services

provided under the partnership agreement between the county mental health plan and the LEA.

h) A plan to establish a partnership in at least three schools within the local educational agency (LEA) in the first year and to expand the partnership to three additional schools in the second year.

2) Requires the California Department of Education (CDE) to expand its reporting system for mental health services provided pursuant to a student's individualized education program (IEP) to include academic performance and any measures included within the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) mental health services performance outcome system.

3) Requires the CDE to enter into an agreement with the State Department of Health Care Services (DHCS) to provide academic performance data to DHCS for use in its performance outcome system regarding students who are enrolled in Medi-Cal and special education who receive mental health services.

4) Requires the Mental Health Services Oversight and Accountability Commission to provide guidance and best-practices guidelines for counties that choose to implement partnership programs for early intervention and prevention with LEAs and public schools.

5) Requires a health care service plan to reimburse services provided by a mental health provider operating within the scope of its practice for services provided on a school campus, as specified.

6) Requires a health insurer to reimburse services provided by a mental health provider operating within the scope of its practice for services provided on a school campus, as specified.

STAFF COMMENTS

1) ***Need for the bill.*** According to the author, "A key finding of the audit (*Student Mental Health Services: Some Students' Services Were Affected by a New State Law, and the State Needs to Analyze Student Outcomes and Track Service Costs*; January 2016) was that LEAs and counties could benefit financially and improve student access to mental health services by collaborating to provide services to Medi-Cal eligible students. Although successful models have demonstrated partnerships like SB 1113 benefit both the counties and LEAs by increasing access to necessary mental health services for all Medi-Cal eligible school-age children, they are rarely implemented by LEAs. LEAs cannot access funding for those EPSDT services unless they contract with their respective counties. Some LEAs and counties disagree over who should pay for the state match as required under the EPSDT program.

2) ***Recent State audit and EPSDT.*** The Bureau of State Audits released a report in January 2016, title *Student Mental Health Services: Some Students' Services Were Affected by a New State Law, and the State Needs to Analyze Student Outcomes and Track Service Costs*. This bill relates to the section of the audit

that is specific to the EPSDT program, which is a Medi-Cal benefit for people under the age of 21 who have "full-scope" Medi-Cal eligibility. The EPSDT program provides eligible children access to a range of mental health services that include, among other things, mental health assessment, mental health services, therapy, rehabilitation, therapeutic behavioral services, crisis intervention/stabilization, day rehabilitation/day treatment, medication support and case management. Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services are administered through county mental health plans under contract with the California Department of Health Care Services; local educational agencies (LEAs) may provide and bill for EPSDT mental health services only pursuant to a contract with the county mental health plan (either the county mental health plan provides and bills for the service, or the LEA becomes a certified provider via the county mental health plan and the LEA provides and bills for the service).

The audit noted that although LEAs cannot access funding for EPSDT services unless they contract with their respective counties, such collaborations could financially benefit both counties and LEAs and increase the provision of services to children. This audit recommended that the Legislature *require* counties to enter into agreements with special education local plan areas (SELPAs) to allow SELPAs and their LEAs to access EPSDT funding through the county mental health programs by providing EPSDT mental health services. [*http://www.bsa.ca.gov/pdfs/reports/2015-112.pdf*]

3) ***Partnerships.*** According to the recent State audit, the Children's Center at Desert Mountain SELPA's collaboration with San Bernardino County is financially beneficial for both the SELPA and the county. The SELPA contributes a portion of San Bernardino's match of federal reimbursements, saving the county funds that it would otherwise have to contribute as the local entity. Under the terms of its agreement with San Bernardino, Desert Mountain was able to access approximately $4 million in federal EPSDT funds to provide mental health services in fiscal year 2014–15. This arrangement enables Desert Mountain to provide mental health services to Medi-Cal-eligible students with and without individualized education programs (IEPs). The State audit also describes a contractual agreement between Mt. Diablo Unified School District and the county mental health department for Mt. Diablo to receive Medi-Cal funds as a provider of EPSDT services to Medi-Cal-eligible students.

This bill establishes a framework for partnerships and authorizes counties and LEAs to enter into such partnerships. It is unnecessary to provide statutory authority to form a partnership, as the Education Code is permissive, and the examples of existing partnerships described above demonstrates that such partnerships exist without explicit statutory authority.

Could this bill restrict the use of funds by LEAs that are not in a partnership, or provide flexibility for the use of funding only to those partnerships that follow the model provided for in this bill? It is unclear if either of the two existing partnerships mentioned above meet the parameters established by this bill.

4) ***Responsibility for costs.*** This bill requires partnerships to include provisions for LEAs to be responsible for the costs of providing mental health services in specific situations. Should the State endorse the formation of partnerships that pre-determine fiscal decisions that may be best left to the local partners?

   This bill provides that a partnership is to include an agreement that the LEA is to cover the costs of mental health provider services not reimbursed by governmental funds or from insurers in the event that mental health service costs exceed the agreed upon funding outlined in the partnership agreement between the county mental health plan and the LEA. Should LEAs always be responsible for the costs of services that are not reimbursed by Medi-Cal or by insurers?

   This bill provides that a county mental health plan and an LEA in a partnership are to use *designated governmental funds* as the required match for eligible Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) reimbursement. Should this bill specify which funds may, and may not, be used for the match?

   This bill provides that a partnership is to require the county mental health plan provider to bill non-Medi-Cal insurers for services to students with health insurance for non-IEP-related covered services. Should this bill be amended to include a cross-reference to existing law that requires parental consent prior to billing the parent's insurance?

5) ***IEP funds for non-IEP based services?*** Existing law restricts the use of AB 114 funds by providing that they may only be used to provide IEP-based mental health services. The audit found that some LEAs had not spent all of the state mental health funds it had received, but did not specifically recommend expanding the allowable uses of AB 114 funds. It is not clear that IEP-based services suffered as a result. This bill allows AB 114 funds to be used for non-IEP-based mental health services. Will authorizing AB 114 funds to be utilized for mental health services outside of a student's IEP result in a reduction in funding for IEP-based services? **Staff recommends an amendment** to prohibit the use of AB 114 funds for non-IEP-bases services unless the LEA first receives a waiver from the State Board of Education.

6) ***Reporting systems for mental health services.*** This bill requires the California Department of Education (CDE) to expand its reporting system for mental health services provided pursuant to a student's individualized education programs (IEP) to include academic performance. It is unclear exactly which academic measures are excluded from CDE's existing reporting system, or if this data is currently available. Will this provision increase data collection and reporting requirements? Is the data related to a provision in SB 884 (Beall) that requires LEAs to provide student outcomes on specific indicators?

7) ***Role for the Senate Health Committee.*** This bill has been double-referred to the Senate Health Committee as it contains provisions within the jurisdiction of that Committee. This analysis reflects only provisions within the jurisdiction of this Committee. It is presumed that the Senate Health Committee analysis will reflect relevant provisions, such as those that require health care service plan

and health insurers to reimburse services provided by a mental health provider operating within the scope of its practice for services provided on a school campus, as specified.

Further, any amendments that may be approved by this Committee must be adopted by the Senate Health Committee, due to time constraints and legislative deadlines.

8) ***Related legislation.*** SB 884 (Beall) requires local educational agencies and special education local plan areas to collect and report specific information relative to mental health services, requires the California Department of Education (CDE) to monitor and compare specific information, and expands the situations in which parents must be provided with notice of procedural safeguards and prior written notification of proposed activities. SB 884 is scheduled to be heard by this Committee on April 6.

AB 1644 (Bonta), the School-Based Early Mental Health Intervention and Prevention Services Support Program, establishes a four-year pilot program to encourage and support local decisions to provide funding for the eligible support services. AB 1644 is pending in the Assembly Education Committee.

9) ***Prior legislation.*** AB 1025 (Thurmond, 2015) required a designated county office of education to establish a three-year pilot program in school districts to encourage inclusive practices that integrate mental health, special education, and school climate interventions following a multi-tiered framework. AB 1025 was held in the Senate Appropriations Committee.

SB 463 (Hancock, 2015) required the CDE, to the extent that funding is available in the Budget Act of 2015, to designate a county office of education to be the fiduciary agent for the Safe and Supportive Schools Train the Trainer Program. SB 463 is pending in the Assembly Education Committee.

AB 1133 (Achadjian, 2015) required the State Public Health Officer to establish a four-year pilot program to, among other things, provide free regional training and technical assistance in support services that include intervention and prevention services, use of trained staff to meet with students on a short-term weekly basis in a one-on-one setting, the potential for support services to help fulfill state priorities described by the local control funding formula and local goals described by local control and accountability plans, and state resources available to support student mental health and positive learning environments. AB 1133 was held in the Assembly Appropriations Committee.

AB 580 (O'Donnell, 2015) required the CDE to develop model referral protocols for voluntary use by schools to address the appropriate and timely referral by school staff of students with mental health concerns. AB 580 vetoed by the Governor, whose veto message read:

> ***California does not currently have specific model referral protocols for addressing student mental health as outlined by this bill. However, the California Department of Education***

> ***recently received a grant from the federal Department of Health and Human Services, Substance Abuse and Mental Health Services Administration to identify and address critical student and family mental health needs. It's premature to impose an additional and overly prescriptive requirement until the current efforts are completed and we can strategically target resources to best address student mental health.***

AB 1018 (Cooper, 2015) required the California Department of Education (CDE) and the Department of Health Care Services to convene a task force to examine the delivery of mental health services through the Early and Periodic Screening, Diagnosis, and Treatment services. AB 1018 was held in the Senate Appropriations Committee.

SB 596 (Yee, 2014) required the CDE to establish a three-year pilot program to encourage inclusive practices that integrate mental health, special education, and school climate interventions following a multi-tiered framework. SB 596 was held at the Assembly Desk.

AB 174 (Bonta, 2014) required the Department of Public Health to establish a pilot program in Alameda County, to the extent that funding is made available, to provide grants to eligible applicants for activities and services that directly address the mental health and related needs of students impacted by trauma. AB 174 was vetoed by the Governor, whose veto message read:

> ***I support the efforts of the bill but am returning it without my signature, as Alameda County can establish such a program without state intervention and may even be able to use Mental Health Services Act funding to do so. Waiting for the state to act may cause unnecessary delays in delivering valuable mental health services to students. All counties - not just Alameda- should explore all potential funding options, including Mental Health Services Act funds, to tailor programs that best meet local needs.***

SUPPORT

None received.

OPPOSITION

None received.

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