
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: SB 1019 **Hearing Date:** April 18, 2018
Author: Beall
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Urgency: No **Fiscal:** Yes
Consultant: Lynn Lorber

Subject: Youth mental health and substance use disorder services

SUMMARY

This bill authorizes a county, or a qualified provider as specified, and a local educational agency (LEA) to enter into a partnership to create a program for the provision of mental health and substance use disorder services to students.

BACKGROUND

Existing law:

- 1) Establishes the Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment (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.)
- 2) Establishes the School-based Early Mental Health Intervention and Prevention Services for Children Act (EMHI) and authorizes the Director of the Department of Mental Health, in consultation with the Superintendent of Public Instruction, to award matching grants to LEAs to pay the state share of the costs of providing school-based early mental health intervention and prevention services to eligible students, subject to the availability of funding each year. (WIC § 4370, et seq.)
- 3) Establishes the Primary Intervention Program, using EMHI funds, to provide school-based early detection and prevention of emotional, behavioral, and learning problems in students in kindergarten and grades 1-3, with services provided by child aides under the supervision of a school-based mental health professional. (WIC § 4343, et seq.)
- 4) Establishes the Investment in Mental Health Wellness Act of 2013 (MHWA), which requires funds appropriated by the Legislature to be made available to specified entities to be used, among other things, for a complete continuum of crisis services for children and youth 21 years of age and under regardless of where they live in the state. States the objectives of the MHWA as expanding access to early intervention and treatment; expanding continuum of services to address such things as crisis stabilization, intervention, and residential treatment;

adding at least 600 triage personnel; and providing local communities with increased financial resources to leverage additional public and private funds to improve networks for those with mental health disorders. (WIC § 5848.5)

- 5) Requires the Mental Health Services Oversight and Accountability Commission (MHSOAC) to allocate grant funds from the Mental Health Wellness Act for triage personnel, using specified criteria, to provide intensive case management and linkage to services, as specified, for individuals with mental health disorders at various access points, including schools. (WIC § 5848.5)
- 6) Creates the Youth Education, Prevention, Early Intervention and Treatment Account, pursuant to the 2016 ballot initiative Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act,” to be administered by the Department of Health Care Services for programs for youth that are designed to educate about and to prevent substance use disorders and to prevent harm from substance abuse. (Revenue and Taxation Code § 34019)

ANALYSIS

This bill authorizes a county, or a qualified provider as specified, and a local educational agency (LEA) to enter into a partnership to create a program for the provision of mental health and substance use disorder services to students. Specifically, this bill:

Partnership

- 1) Authorizes a county, or a qualified provider operating as part of the county mental health plan network that provides substance use disorder services, and an LEA to enter into a partnership to create a program that, in addition to reflecting each school’s specified culture and needs, includes all of the following:
 - a) Leveraging of school and community resources to offer comprehensive multi-tiered interventions on a sustainable basis.
 - b) An initial school climate assessment that includes information from multiple stakeholders, including school staff, students, and families, that is used to inform the selection of strategies and interventions that reflect the culture and goals of the school.
 - c) A coordination of services team that considers referrals for services, oversees schoolwide efforts, and uses data-informed processes to identify struggling student who require early interventions.
 - d) Whole school strategies that address school climate and universal student wellbeing, such as positive behavioral interventions and supports, as well as comprehensive professional development opportunities, that build the capacity of the entire school community to recognize and respond to the unique social-emotional, behavioral, and academic needs of students.
 - e) Targeted interventions for students with identified social-emotional, behavioral, and academic needs, such as therapeutic group interventions,

functional behavioral analysis and plan development, targeted skill groups, and eligible services specified by the School-Based Early Mental Health Intervention and Prevention Services Matching Grant Program.

- f) Intensive services, such as wraparound, behavioral intervention, or one-on-one support, that can reduce the need for a student's referral to special education or placement in more restrictive, isolated settings.
- g) Specific strategies and practices that ensure parent engagement with the school and provide parents with access to resources that support their children's educational success.
- h) Utilization of designated governmental funds for eligible Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services provided to students enrolled in Medi-Cal for mental health and substance use disorder service costs, for non-Medi-Cal enrolled students with an individualized education program (IEP), and for students who do not have an IEP if the services are provided by a provider specified in i) below.
- i) An agreement between the county mental health plan, or the qualified provider, and the local educational agency (LEA) that establishes a Medi-Cal mental health provider that is county-operated or county-contracted for the provision of mental health and substance use disorder services to students of the LEA.
 - i) Authorizes the agreement to include provisions for the delivery of campus-based mental health and substance use disorder services through qualified providers or qualified professionals to provide on-campus support to identify students with an IEP and students who do not have an IEP but who a teacher believes may require those services, and with parental consent, to provide mental health or substance use disorder services to those students.
 - ii) Requires the LEA, with the permission of the student's parent, to provide the county mental health plan provider with the information of the health insurance carrier for each student.
 - iii) Requires the agreement to address how to cover the costs of mental health and substance use disorder provider services not covered by funds pursuant to h) in the event that mental health and substance use disorder service costs exceed the agreed-upon funding outlined in the partnership agreement following a yearend cost reconciliation process, and in the event that the LEA does not elect to provide the services through other means. This bill provides that nothing in this paragraph shall hold the LEA liable for any costs that exceed the agreed-upon funding outlined in the agreement.
 - iv) Requires the agreement to fulfill reporting and all other requirements under state and federal Individuals with Disabilities

Education Act and Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment provisions, and measure the effect of the mental health and substance use disorder intervention and how that intervention meets the goals in a student's individualized education program (IEP) or relevant plan for students who do not have an IEP.

- v) Requires the agreement to include a process for resolving disagreements between the local educational agency (LEA) and county mental health plan network related to any of the elements of the agreement.
- vi) Requires the agreement to include strategies to support the educational success of students who have repeated or prolonged absences from school due to mental illness or substance abuse disorders.
- j) A plan to establish a program in at least one school within the LEA in the first year and to expand the partnership to three additional schools within three years.

Fund

- 2) Establishes the County and Local Educational Agency Partnership Fund (Fund) within the State Treasury. Provides that moneys in the fund are available, upon appropriation by the Legislature, to the California Department of Education (CDE) for the purpose of funding the partnerships.
- 3) Requires CDE to fund partnerships through a competitive grant program, and requires priority for funding to be given to partnerships with LEAs that have demonstrated high levels of childhood adversity, including but not limited to high-poverty LEAs and schools eligible under the Community Eligibility Provision of the federal Healthy, Hunger-Free Kids Act, and LEAs and schools identified in the California Longitudinal Pupil Achievement Data System as having high rates of foster youth and homeless children and youth.
- 4) Requires the Superintendent of Public Instruction to allocate funds from that appropriation to the Fund for the 2019-20 fiscal year and each fiscal year thereafter, to the extent there is an appropriation in the annual Budget Act or another act.
- 5) Authorizes other funds identified and appropriated by the Legislature to also be deposited into the Fund and used for the purposes described in #2.
- 6) Requires funds made available in the annual Budget Act for the purpose of providing educationally related mental health and substance use disorder services, including out-of-home residential services for emotionally disturbed students, whether required or not by an IEP, to be used only for that purpose and prohibits those funds from being deposited into the Fund. This bill provides that nothing in this section requires the use of funds included in the minimum funding

obligation under Section 8 of Article XVI of the California Constitution for the partnerships.

Guidelines

- 7) Requires the Mental Health Services Oversight and Accountability Commission (MHSOAC), in consultation with the California Department of Education (CDE) and Department of Health Care Services (DHCS), to develop guidelines for the use of funds appropriated from the Mental Health Services Fund by a county for innovative programs and prevention and early intervention programs to enter into and support the partnerships.
- 8) Requires the guidelines in #7 to include provisions for integration with funds and services supplemented with funds from the Youth Education, Prevention, Early Intervention and Treatment Account to the extent that funds from that account are appropriated for those purposes.
- 9) Requires the MHSOAC to develop guidelines for the use of funds appropriated by the Legislature for triage personnel, pursuant to the Investment in Mental Health Wellness Act (MHWA), by a county to enter into and support the partnerships.
- 10) Requires the CDE to develop guidelines for local educational agencies (LEAs) on the manner in which to enter into partnerships.
- 11) Requires DHCS to develop guidelines for county behavioral health departments on the manner in which to use funds from the Mental Health Services Fund and funds from the Medi-Cal program to enter into and support partnerships.

Miscellaneous

- 12) Requires the partnership to participate in the performance outcome system established by the DHCS to measure results of services provided under the partnership.
- 13) Defines an LEA as a school district, county office of education, non-profit charter school participating as a member of a special education local plan area (SELPA), or a SELPA.
- 14) Requires the MHSOAC, when issuing grants pursuant to the Investment in MHWA, to allocate at least one-half of the funds for services or programs targeted at children and youth 18 years of age and under.
- 15) States legislative intent that, beginning with the 2019-20 fiscal year, DHCS utilize funds from the Youth Education, Prevention, Early Intervention and Treatment Account to support the partnerships, and to allocate a portion of those funds only to counties that also provide funds from the Mental Health Services Fund and Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment mental health

and substance use disorder funds.

- 16) States legislative intent that, when applicable and to the extent mutually agreed to by a school district and a plan or insurer, that a health care service plan or a health insurer be authorized to participate in the partnerships.
- 17) States legislative findings and declarations relative to multi-tiered models to ensure prompt referral for support and comprehensive integrated services having the best outcomes in improving student health and academic performance.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Partnerships between schools and community mental/behavioral health professionals offer students and families an extended network of mental health programs and services that are easily accessible. When programs are able to identify and address student mental and behavioral challenges early, students are more likely to gain resiliency skills and be successful in school and life while the threat of later harm is reduced. Although youth mental health outreach has demonstrable benefits to children, only a handful of California schools have partnered with county mental health agencies and existing Triage funds are primarily utilized for adult mental health services.”
- 2) ***Provision of mental health services.*** The federal Individuals with Disabilities Education Act provides that students with exceptional needs identified as having “emotional disturbance” may be eligible to receive mental health services. Mental health services are considered “related services” and include counseling, psychological services, parent counseling and training, and residential placement, among others. (United States Code, Title 20, § 1400, et seq., Code of Federation Regulations, Title 34, § 300.34, and Education Code § 56363)

AB 114 (Committee on Budget, Chapter 43, 2011) shifted responsibility for mental health services for students from counties to local educational agency (LEAs). Any and all services identified in a student’s individualized education program (IEP) must be provided, whether directly by LEA employees or through a contract with outside providers such as county mental health agencies. LEAs are required to ensure services are provided to students regardless of who provides or pays for those services. (Education Code § 56139)

- 3) ***Partnerships.*** According to a 2016 State audit (see Comment #5), the Children’s Center at Desert Mountain special education local plan area’s (SELPA) 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 Early and Periodic Screening, Diagnosis, and Treatment funds to provide mental health services in the 2014–15 fiscal year. This arrangement enables Desert Mountain to provide mental health services to Medi-Cal-eligible students with and without 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 Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services to Medi-Cal-eligible students.

This bill establishes a framework for partnerships and authorizes counties and local educational agencies (LEAs) to enter into such partnerships. *The Committee may wish to consider whether such statutory authority is necessary*, as the Education Code is permissive and the examples of existing partnerships described above demonstrate that such partnerships may exist without explicit language in statute.

- 4) **State audit.** The Bureau of State Audits released a report in January 2016, titled *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*. The EPSDT program, which is a Medi-Cal benefit for people under the age of 21 who have "full-scope" Medi-Cal eligibility, 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. EPSDT services are administered through county mental health plans under contract with the California Department of Health Care Services; 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 local educational agencies (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 (SELPA) to allow SELPA and their LEAs to access Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) funding through the county mental health programs by providing EPSDT mental health services.

- 5) **Technical amendments.** On page 17, lines 29-30:

*an IEP adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794(a)) **the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.)** and pupils who*

On page 18, line 14:

*the goals in a pupil's IEP or relevant plan for ~~non-IEP~~ pupils **who do not have an IEP***

- 6) ***Heard by the Senate Health Committee.*** This bill was heard and passed by the Senate Health Committee on March 14, 2018, on a 9-0 vote.
- 7) ***Previous legislation.*** SB 191 (Beall, 2017) was nearly identical to this bill. SB 191 passed this Committee on March 15, 2017, on a 7-0 vote, and was subsequently held in the Senate Appropriations Committee.

SB 1113 (Beall, 2016) authorized LEAs to enter into partnerships, as specified, with county mental health plans for the provisions of EPSDT mental health services, and to expand the allowable uses of specified mental health funds. SB 1113 was vetoed by the Governor, whose veto message read:

I am returning the following four bills without my signature:

***Assembly Bill 1198
Assembly Bill 1783
Assembly Bill 2182
Senate Bill 1113***

Each of these bills creates unfunded new programs.

Despite significant funding increases for local educational agencies over the past few years, the Local Control Funding Formula remains only 96 percent funded. Given the precarious balance of the state budget, establishing new programs with the expectation of funding in the future is counterproductive to the Administration's efforts to sustain a balanced budget and to fully fund the Local Control Funding Formula.

Additional spending to support new programs must be considered in the annual budget process.

AB 1644 (Bonta, 2016) required the Department of Public Health (DPH) to establish a four-year program to support local decisions to provide funding for early mental health support services, requires DPH to provide technical assistance to local educational agencies, and requires DPH to select and support schoolsites to participate in the program. AB 1644 was held in the Senate Appropriations Committee.

AB 1133 (Achadjian, 2015) established a four-year pilot program, the School-Based Early Mental Health Intervention and Prevention Services Support Program (EMHI Support Program), to provide outreach, free regional training, and technical assistance for local educational agencies in providing mental health services at school sites. AB 1133 was held in the Assembly Appropriations Committee.

AB 1025 (Thurmond, 2015) required the California Department of Education (CDE) 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.

AB 1018 (Cooper, 2015) required the Department of Health Care Services and CDE to convene a joint taskforce to examine the delivery of mental health services to children. AB 1018 was held in the Senate 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 was 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.

SUPPORT

East Side Union High School District
Seneca Family of Agencies
Western Center on Law and Poverty

OPPOSITION

None received

-- END --