
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

Bill No: AB 258 **Hearing Date:** July 3, 2019
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Urgency: No **Fiscal:** Yes
Consultant: Brandon Darnell

Subject: Pupil health: School-Based Pupil Support Services Program Act.

SUMMARY

This bill establishes the School-Based Pupil Support Services Program to increase in-school support services to pupils by appropriating funding from the Youth Education, Prevention, Early Intervention and Treatment (YEPEIT) Account.

BACKGROUND

- 1) Establishes effective January 1, 2018, a cannabis excise tax to be imposed upon purchasers of cannabis or cannabis products sold in this state at the rate of 15 percent of the average market price of any retail sale by a cannabis retailer. (Revenue & Taxation Code § 34011)
- 2) Establishes the California Cannabis Tax Fund in the State Treasury consisting of all taxes, interest, penalties, and other amounts collected and paid to the board pursuant to this part. This special trust fund established solely to carry out the purposes of the Control, Regulate and Tax Adult Use of Marijuana Act and all revenues deposited into the Tax Fund, together with interest or dividends earned by the fund, are to be expended only in accordance with the provisions of the Act. (RTC § 34018)
- 3) Specifies that the Controller is to disburse funds in the California Cannabis Tax Fund as follows:
 - a) Reasonable costs incurred by various state agencies for carrying out specified duties associated with the Act.
 - b) Ten million dollars (\$10,000,000) to a public university or universities annually beginning in 2018-19 to 2028-29 to research the effect of the Control, Regulate and Tax Adult Use of Marijuana Act.
 - c) Three million dollars (\$3,000,000) annually from 2018-19 through 2022-23 to the California Highway Patrol to adopt protocols to determine whether a driver is operating a vehicle while impaired by the use of cannabis or cannabis products.
 - d) Ten million dollars (\$10,000,000) annually in 2018-19, increasing to fifty million dollars (\$50,000,000) in 2022-23 to the Governor's Office of

Business and Economic Development to administer a community reinvestments grants program.

- e) Two million dollars (\$2,000,000) annually to the University of California San Diego Center for Medicinal Cannabis Research.
- f) By July 15 of each year, beginning in 2018-19 the Controller will, after disbursing funds for the purposes identified in (a) through (e) above, disburse 60 percent of the remaining funds into the YEPEIT account to DHCS for programs for youth designed to educate about, and to prevent, substance abuse disorders and to prevent harm from substance use. Requires the DHCS to enter into interagency agreements with the State Department of Public Health (CDPH) and the California Department of Education (CDE) to implement and administer these programs. Specifies that these programs may include, but are not limited to, the following:
 - i) Prevention and early intervention services to recognize and reduce risks associated with substance use and the early signs of problematic use and substance abuse disorders.
 - ii) Grants to schools for student assistance programs designed to prevent and reduce substance abuse, and improve school retention and performance, by supporting students who are at risk of dropping out of school and promoting alternatives to suspension or expulsion.
 - iii) Grants to programs for outreach, education, and treatment for homeless youth and out-of-school youth with substance use disorders.
 - iv) Access and linkage to care provided by county behavioral health programs for youth who have, or are at risk of developing, a substance use disorder.
 - v) Youth-focused substance use disorder treatment programs, which utilize a two-generation approach with the capacity to treat youth and adults together.
 - vi) Programs to assist individuals, as well as families and friends, to reduce the stigma associated with substance use including seeking substance use disorder services.
- g) Specifies that the funds identified in (f) above may also be utilized for workforce training and wage structures to increase the hiring pool of behavioral health staff with substance use disorder prevention and treatment expertise, and for construction of community-based youth treatment facilities.
- h) Specifies that the DHCS may contract with each county behavioral health program for the provision of services and that the funds identified in (f)

above will be allocated to counties based on demonstrated need, including the number of youth in the county, and the prevalence of substance use disorders among adults. (RTC § 34019)

- 4) Requires a school to include in its School Accountability Report Card, the availability of qualified personnel to provide counseling and other pupil support services, including the ratio of academic counselors per pupil. (Education Code § 33126)
- 5) Expresses the intent of the Legislature that the governing board of each school district and each county superintendent of schools maintain fundamental school health services at a level that is adequate to accomplish all of the following: preserve pupils' ability to learn, fulfill existing state requirements and policies regarding pupils' health, and contain health care costs through preventive programs and education. (EC § 49427)
- 6) Requires the governing board of a school district to give diligent care to the health and physical development of pupils, and authorizes the district to employ properly certified persons for the work. (EC § 49400)
- 7) Specifies that the minimum requirements for the services credential with a specialization in pupil personnel services are a baccalaureate degree or higher degree from an approved institution, a fifth year of study, and any specialized and professional preparation that the Commission on Teacher Credentialing (CTC) requires. The services credential with a specialization in pupil personnel services authorizes the holder to perform, at all grade levels, the pupil personnel service approved by the CTC as designated on the credential, which may include, but need not be limited to, school counseling, school psychology, child welfare and attendance services, and school social work. (EC § 44266)
- 8) Specifies that the minimum requirements for a services credential with a specialization in health for a school nurse are all of the following: a baccalaureate or higher degree from an accredited institution, a valid California license as a registered nurse, and one year of coursework beyond the baccalaureate degree in a program approved by the CTC. The services credential with a specialization in health for a school nurse authorizes the holder to perform, at grades 12 and below, the health services approved by the CTC designated on the credential. (EC § 44267.5)

ANALYSIS

This bill establishes the School-Based Pupil Support Services Program to increase in-school support services to pupils by appropriating funding from the Youth Education, Prevention, Early Intervention and Treatment Account. Specifically, this bill:

- 1) Declares the intent of the Legislature to enact legislation that would increase in-school support services to pupils in order to break down barriers to academic success.
- 2) Establishes the following definitions:

- a) “LEA” or “local educational agency” means a school district, charter school, or a county office of education.
 - b) “Lead agency” means the California Department of Education (CDE).
 - c) “Qualifying school” includes a school in which 55 percent or more of the pupils enrolled are unduplicated pupils, as defined.
 - d) “School health professional” means an individual holding a services credential with a specialization in pupil personnel services or a services credential with a specialization in health for a school nurse.
- 3) Appropriates funding from the YEPEIT to the DHCS, for purposes of awarding grants as established in this bill, for each fiscal year beginning with the 2019–20 fiscal year.
 - 4) Requires any funds that are not fully expended in a single fiscal year to be available for purposes of implementing this bill in any one of, or across one or more of, subsequent fiscal years.
 - 5) Requires DHCS to transfer the funds appropriated in paragraph (3) above to the lead agency, upon determining that the grants to be awarded will be used for purposes for which the use of moneys from the YEPEIT account is authorized.
 - 6) Requires all grants awarded under this bill to be matched by the participating LEA with one dollar (\$1) for each four dollars (\$4) awarded. Permits the CDE to waive the match requirement upon verifying that the LEA made a substantial effort to secure a match but was unable to secure the required matching funds.
 - 7) Requires DHCS to establish an interagency agreement with the CDE to implement this bill in accordance with the pertinent provisions of the Control, Regulate and Tax Adult Use of Marijuana Act, (Proposition 64, as approved by the voters at the November 8, 2016, statewide general election), and in accordance with a determination that the use of the funds for these purposes is authorized. Permits CDE to integrate or redirect existing resources to perform its duties. These duties include, but are not limited to, all of the following:
 - a) Developing, promoting, and implementing policy supporting the program.
 - b) Reviewing grant applications and awarding grants.
 - c) Soliciting input regarding program policy and direction from individuals and entities with experience in the integration of children’s services.
 - d) Ensuring that programs funded through grants are evidence based or evidence informed, and are effective in providing education and preventing substance abuse disorders and harm that may come from substance use.

- e) Ensuring that programs funded through grants provide accurate education to school employees, youth, and caregivers about substance use, mental health stigma, and physical health.
 - f) Ensuring that the programs funded through grants provide effective prevention as well as early intervention of substance use, behavioral health issues, and physical health issues.
 - g) Ensuring that the programs funded through grants provide timely treatment of youth and their families and caregivers, as needed.
 - h) At the request of the Superintendent of Public Instruction (SPI), assisting the LEA or consortium in planning and implementing this program, including assisting with local technical assistance, and developing interagency collaboration.
- 8) Requires an LEA or a consortium of LEAs to first receive a planning grant that will pay the costs of planning and coordination activities, on behalf of one or more qualifying schools within the LEA, relating to programs that provide support services that will include programs designed to educate pupils and prevent substance use disorders (SUD) from affecting pupils and their families at or near the school.
- 9) Requires a recipient of a planning grant under this bill to, at a minimum, comply with all of the following requirements:
- a) Implementing a school climate assessment that includes information from multiple stakeholders, including school staff, pupils, and families, that is used to inform the selection of strategies and behavioral health, as well as substance abuse, and interventions that reflect the culture and goals of the school.
 - b) Committing to leverage school and community resources to offer comprehensive multi-tiered services on a sustainable basis, which can include community and faith-based organizations, foster care providers, juvenile and family courts, and others, who recognize the early signs of substance use, behavioral health issues, physical health, and other barriers to academic success.
 - c) Developing strategies and practices that ensure parent engagement with the school and provide parents with access to resources that support their children's educational success.
 - d) Developing strategies and practices that prevent and reduce dropping out of school.
 - e) Creating and maintaining a mechanism, described in writing, to coordinate services provided to individual pupils among school staff and school health center staff while maintaining the confidentiality and privacy of health information consistent with applicable state and federal law.

- 10) Authorizes, upon completion of the planning phase, the qualifying school, on behalf of which an LEA, or consortium of LEAs, has received a planning grant, to receive an operational grant once it has demonstrated readiness to begin operation of a program or to expand existing support services programs. Establishes an unspecified maximum grant awarded by this bill for an unspecified amount of maximum years.
- 11) Requires a recipient of an operational grant to, at a minimum, comply with all of the following requirements:
 - a) Increase the presence of school health professionals in its schools.
 - b) Provide effective evidence-based or evidence-informed programs that prevent and reduce substance abuse among its pupils.
 - c) Establish a coordination-of-services team that considers referrals for services, oversees schoolwide efforts, and uses data-informed processes to identify struggling pupils who require early interventions and specifies that this team may include existing staff.
 - d) Provide comprehensive professional development opportunities for school employees, including teachers that enable school employees to recognize and respond to a child's unique needs, including the ability to provide referrals to professionals in the school who can provide the needed support service.
- 12) Specifies that nothing in this bill be construed to require teachers to provide mental health services to pupils.
- 13) Requires each recipient of a grant under this bill to annually report each of the following to CDE:
 - a) The number of school health professionals employed with grant funds.
 - b) The ratio of newly hired health professionals to pupils.
 - c) Information indicating an increase in the level of evidence-based programming for pupil support services and the specific outcomes being addressed by each program that is funded.
 - d) Changes in measurable outcomes identified as goals of the program funded, including, but not necessarily limited to, reductions in dropout rates, reductions in substance abuse disorders, decreased rates of school suspensions and expulsions, or increased graduation rates, over the span of the operational grant.
 - e) An evaluation of the impact of the School-Based Pupil Support Services Program. This includes a comparison of data from before the grant was awarded and after. This can include discipline referrals, attendance, suspensions, and other relevant data that can be used to assess impact.

- 14) Requires the lead agency (defined to be CDE), by January 1, 2021, and at least annually thereafter, to provide to the Legislature, and make available publicly on the CDE's internet website, a report detailing both of the following:
 - a) Budget information, including the funding allocated to each agency and the specific outcomes addressed.
 - b) Data measuring outcomes, and year-over-year trend data that demonstrate the progress that has been attained in meeting target levels for each outcome.

STAFF COMMENTS

- 1) Need for the bill. According to the author, "Currently, the K-12 public education system has a shortage of school support personnel. These professional staff include: school nurses, counselors, social workers, and psychologists. These personnel are the value added to the school community and with the services provided they play an important role in ensuring students are in a safe and supportive environment. Studies have proven that there is a connection between health and academic failure, with poor health affecting student's attendance, grades, and ability to learn in school. Credentialed pupil services staff address a myriad of issues that impact a child's ability to attend school on a regular basis and to function within the school environment.

To adequately address the problems children bring to school, there has to be adequate staffing to address the issues that impact and in many cases prevent students from being successful in schools. To that end, the ratios for personnel (681:1 for counselors, 2502:1 for nurses, 1124:1 for psychologists and 9277:1 for social workers) must be addressed."

- 2) ***Proposition 64 (Adult Use of Marijuana Act)***. The Adult Use of Marijuana Act (AUMA) was passed by the voters in November 2016. As a result of the passage of AUMA, adults, aged 21 years or older, are allowed to possess and use marijuana for recreational purposes. AUMA created two new taxes; a cultivation tax on marijuana plants and flowers and a 15 percent excise tax on the sale of all marijuana and marijuana products. AUMA also exempted from the California state sales tax, sales of medical marijuana or marijuana products. Revenues collected from the new state excise tax and the cultivation tax on growing marijuana will be deposited in a new state account, the California Marijuana Tax Fund (Fund). Certain fines on businesses or individuals who violate regulations created by AUMA would also be deposited into the Fund. Monies in the Fund will first be used to pay back certain state agencies for any marijuana regulatory costs not covered by license fees. A portion of the monies will then be allocated as follows:
 - a) Sixty percent to youth Education, Prevention, Early Intervention and Treatment Account for youth programs including substance use disorder education, prevention, and treatment.

- b) Twenty percent to clean up and prevent environmental damage resulting from the illegal growing of marijuana.
 - c) Twenty percent for programs designed to reduce driving under the influence of alcohol, marijuana, and other drugs and a grant program designed to reduce any potential negative impacts on public health or safety resulting from the measure.
- 3) ***Other states use cannabis tax revenues to support school services.*** The State of Colorado allocates a portion of revenues generated through taxes, licensing, and fees related to the sale of medical and retail cannabis to support school mental health, including substance use prevention and education. Initiatives funded include:
- a) Colorado School Health Professional Grant to fund staff; professional development and training; and resources to develop and implement high quality behavioral health programming, including evidence-based programs that address substance use prevention and universal screening.
 - b) Colorado School Bullying Prevention Grant to fund the implementation of evidence-based bullying prevention practices; family and community involvement in school bullying prevention strategies; and adopting policies on bullying education and prevention.
 - c) Student Reengagement Grant to assist LEAs in providing educational services and supports to maintain student engagement and support student reengagement at the secondary level.
- The State of Washington also allocates revenues generated through the legal sale of cannabis to community-based and school-based programs that address issues such as substance use prevention; school engagement; and physical and mental wellness.
- 4) ***California lags in providing social-emotional support to pupils.*** According to the CDE data for 2016-17, there were 5,932 school psychologists and 687 social workers employed in California schools. Further, 29 percent of California school districts have no counseling programs at all. The ratio of students per counselor in this state averages 945 to 1, compared to the national average of 477 to 1, ranking California last in the nation. As of 2016-17, there were only 2,630 credential school nurses, but there are more than 10,000 public K-12 schools in California.
- 5) ***School health professionals and substance use disorders.*** Staff is aware that concerns have been raised as to whether school health professionals are adequately trained regarding substance use disorders. It is true that there specified substance use disorder certification and training programs; for example, the Addiction Counselor Certification Board of California awards the Certified Addictions Treatment Counselor credential to those who have completed programs that are accredited by the California Association for Alcohol/ Drug Educators (CAADE) or deemed equivalent. Candidates must accrue 2,240 hours

in a state-licensed facility and programs must be housed in regionally accredited institutions. Nothing in the bill requires a school health professional to also obtain any specialization in substance use disorders.

However, it should be noted that the School Nurse Program Standards, which all credential programs must comply with as adopted by the CTC, do include standards that address substance abuse. For example, Program Standard 4: Preparation to Promote Student Health and Wellness, provides, in part, that in order for students to be optimally ready to learn, the program must ensure that the candidate understands and can effectively apply the critical concepts of health and wellness within the school setting. These include, among other things, “addressing issues of community and family violence and substance abuse.”

Additionally, one of the three School Nursing Competencies: Providing health and wellness services (Primary Level Intervention), specifies that “candidates promote mental health of students and staff, are alert to potential situations of child abuse and/or neglect and report such situations appropriately; and also recognize signs and symptoms of potential substance use and abuse and make appropriate referrals.”

While these standards and competencies may not require the same rigor of specific substance use disorder certifications, they do underscore that school health professionals do receive some degree of training on substance use issues. It should also be noted that the bill does require grantees to provide comprehensive professional development opportunities.

- 6) ***Related and previous legislation.*** AB 8 (Chu, 2019) requires public schools, including charter schools, to have one mental health professional who is accessible on campus during school hours for every 600 pupils by December 31, 2024, and requires counties to provide Mental Health Services Act funding to school districts, county offices of education, and charter schools for that purpose.

AB 1085 (McCarty, 2019) (1) encourages After School Education and Safety (ASES) programs, the 21st Century Community Learning Centers (21st CCLC) programs, and the 21st Century High School After School Safety and Enrichment for Teens (ASSETs) programs to establish programs that are designed to educate about and prevent substance use disorders or to prevent harm from substance abuse; (2) requires the DHCS to enter into interagency agreements with the CDE to administer those programs and allocate their funding; and (3) specifically authorizes DHCS to consider selecting those programs for funding from the Control, Regulate and Tax Adult Use of Marijuana Act.

AB 1098 (O'Donnell, 2019) Requires the DHCS, in collaboration with specified state agencies, to convene a technical advisory committee to assist in establishing procedures for the implementation and administration of programs funded by cannabis tax funds aimed at providing substance abuse education and prevention programs targeted toward youth. Requires specified statewide assessments and reporting to the Legislature. Contains an urgency clause that

will make this bill effective upon enactment. AB 1098 is scheduled to be heard by this committee on July 3, 2019.

AB 396 (Eggman, 2019) would have, subject to appropriation, created the School Social Worker Pilot Program to fund social workers at eligible schools or charter schools in specified counties. AB 396 was held in the Assembly Appropriations Committee.

AB 2022 (Chu, Chapter 484, Statutes of 2018) requires each school of a school district or county office of education, and charter schools, to notify students and parents or guardians of pupils, at least twice per school year, about how to initiate access to available student mental health services on campus or in the community.

AB 2315 (Quirk-Silva, Chapter 759, Statutes of 2018) requires the CDE, in consultation with the DHCS and appropriate stakeholders with experience in telehealth, to develop guidelines on or before July 1, 2020, for the use of telehealth technology to provide mental health and behavioral health services to pupils on public school campuses, including charter schools.

AB 2471 (Thurmond, of the 2017-18 Session) was substantially similar to this bill. AB 2471 was held in the Assembly Appropriations Committee.

SUPPORT

California School Nurses Organization (Co-sponsor)
California Teachers Association (Co-Sponsor)
American Civil Liberties Union of California
California Association of School Counselors
California Behavioral Health Planning Council
California State PTA
Fight Crime: Invest In Kids
Los Angeles Unified School District
Mission: Readiness
National Association of Social Workers, California Chapter
ReadyNation

OPPOSITION

California Society of Addiction Medicine
California Right to Life Committee, Inc.
County Behavioral Health Directors Association of California

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