

ASSEMBLY BILL

No. 1367

**Introduced by Assembly Member Mansoor
(Coauthors: Assembly Members Achadjian, Allen, Conway, Beth
Gaines, Gorell, Hagman, Harkey, and Morrell)**

February 22, 2013

An act to amend Sections 5813.5, 5840, 5890, and 5892 of the Welfare and Institutions Code, relating to mental health, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1367, as introduced, Mansoor. Mental health: Mental Health Services Fund.

Existing law, known as Laura's Law, until January 1, 2017, regulates designated assisted outpatient treatment services, which a county may choose to provide for its residents. In a county where assisted outpatient treatment services are available, a person is authorized to receive specified mental health services pursuant to an order if requisite criteria are met, as specified. Under that law, participating counties are required to provide prescribed assisted outpatient services, including a service planning and delivery process that provides for services that are client-directed and employ psychosocial rehabilitation and recovery principles.

Existing law contains provisions governing the operation and financing of community mental health services for the mentally disordered in every county through locally administered and locally controlled community mental health programs. Existing law, the Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election,

funds a system of county mental health plans for the provision of mental health services, as specified. The act provides that it may be amended by the Legislature by a $\frac{2}{3}$ vote of each house as long as the amendment is consistent with and furthers the intent of the act, and that the Legislature may also clarify procedures and terms of the act by majority vote.

The act establishes the Mental Health Services Fund, continuously appropriated to and administered by the State Department of Health Care Services, to fund specified county mental health programs, including prevention and early intervention programs, which include outreach, and programs implemented under the Adult and Older Adult Mental Health System of Care Act. The Adult and Older Adult Mental Health System of Care Act establishes services standards that require, among other things, that a service planning and delivery process provides for services that are client-directed and employ psychosocial rehabilitation and recovery principles.

This bill would declare that it is consistent with and furthers the intent of the Mental Health Services Act. This bill would clarify that services provided under Laura’s Law may be provided pursuant to the Mental Health Services Act. This bill would provide that outreach under prevention and early intervention programs may include the provision of funds to school districts, county offices of education, and charter schools for the purposes of obtaining and providing training to identify students with mental health issues that may result in a threat to themselves or others. By allocating moneys in the Mental Health Services Fund for new purposes, this bill would make an appropriation.

This bill would delete obsolete provisions and make other conforming changes.

Because the bill would amend Proposition 63, it would require a $\frac{2}{3}$ vote of the Legislature.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares that
- 2 the provisions of this act are consistent with, and further the intent
- 3 of, the Mental Health Services Act.
- 4 SEC. 2. Section 5813.5 of the Welfare and Institutions Code
- 5 is amended to read:

1 5813.5. Subject to the availability of funds from the Mental
2 Health Services Fund, the state shall distribute funds for the
3 provision of services under Sections 5347, 5348, 5801, 5802, and
4 5806 to county mental health programs. Services shall be available
5 to adults and seniors with severe illnesses who meet the eligibility
6 criteria in subdivisions (b) and (c) of Section 5600.3. For purposes
7 of ~~this act~~ *the Mental Health Services Act*, seniors means older
8 adult persons identified in ~~Part 3 (commencing with Section 5800)~~
9 ~~of this division~~ *part*.

10 (a) Funding shall be provided at sufficient levels to ensure that
11 counties can provide each adult and senior served pursuant to this
12 part with the medically necessary mental health services,
13 medications, and supportive services set forth in the applicable
14 treatment plan.

15 (b) The funding shall only cover the portions of those costs of
16 services that cannot be paid for with other funds including other
17 mental health funds, public and private insurance, and other local,
18 state, and federal funds.

19 (c) Each county mental health programs plan shall provide for
20 services in accordance with the system of care for adults and
21 seniors who meet the eligibility criteria in subdivisions (b) and (c)
22 of Section 5600.3.

23 (d) Planning for services shall be consistent with the philosophy,
24 principles, and practices of the Recovery Vision for mental health
25 consumers:

26 (1) To promote concepts key to the recovery for individuals
27 who have mental illness: hope, personal empowerment, respect,
28 social connections, self-responsibility, and self-determination.

29 (2) To promote consumer-operated services as a way to support
30 recovery.

31 (3) To reflect the cultural, ethnic, and racial diversity of mental
32 health consumers.

33 (4) To plan for each consumer's individual needs.

34 (e) The plan for each county mental health program shall
35 indicate, subject to the availability of funds as determined by Part
36 4.5 (commencing with Section 5890) of this division, and other
37 funds available for mental health services, adults and seniors with
38 a severe mental illness being served by this program are either
39 receiving services from this program or have a mental illness that

1 is not sufficiently severe to require the level of services required
2 of this program.

3 (f) Each county plan and annual update pursuant to Section
4 5847 shall consider ways to provide services similar to those
5 established pursuant to the Mentally Ill Offender Crime Reduction
6 Grant Program. Funds shall not be used to pay for persons
7 incarcerated in state prison or parolees from state prisons.

8 (g) The department shall contract for services with county
9 mental health programs pursuant to Section 5897. After ~~the~~
10 ~~effective date of this section~~ *January 1, 2005*, the term ~~grants~~
11 ~~referred to "grant" as used in Sections 5814 and 5814.5 shall refer~~
12 ~~to such contracts~~ *means a contract described in this subdivision.*

13 SEC. 3. Section 5840 of the Welfare and Institutions Code is
14 amended to read:

15 5840. (a) The State Department of Health Care Services, in
16 coordination with counties, shall establish a program designed to
17 prevent mental illnesses from becoming severe and disabling. The
18 program shall emphasize improving timely access to services for
19 underserved populations.

20 (b) The program shall include the following components:

21 (1) Outreach to families, employers, primary care health care
22 providers, *school districts, county offices of education, charter*
23 *schools*, and others to recognize the early signs of potentially severe
24 and disabling mental illnesses. *This may include the provision of*
25 *funds to school districts, county offices of education, and charter*
26 *schools for the purposes of obtaining and providing training to*
27 *identify students with mental health issues that may result in a*
28 *threat to themselves or others in order to provide for timely*
29 *intervention.*

30 (2) Access and linkage to medically necessary care provided
31 by county mental health programs for children with severe mental
32 illness, as defined in Section 5600.3, and for adults and seniors
33 with severe mental illness, as defined in Section 5600.3, as early
34 in the onset of these conditions as practicable.

35 (3) Reduction in stigma associated with either being diagnosed
36 with a mental illness or seeking mental health services.

37 (4) Reduction in discrimination against people with mental
38 illness.

39 (c) The program shall include mental health services similar to
40 those provided under other programs effective in preventing mental

1 illnesses from becoming severe, and shall also include components
2 similar to programs that have been successful in reducing the
3 duration of untreated severe mental illnesses and assisting people
4 in quickly regaining productive lives.

5 (d) The program shall emphasize strategies to reduce the
6 following negative outcomes that may result from untreated mental
7 illness:

8 (1) Suicide.

9 (2) Incarcerations.

10 (3) School failure or dropout.

11 (4) Unemployment.

12 (5) Prolonged suffering.

13 (6) Homelessness.

14 (7) Removal of children from their homes.

15 (e) Prevention and early intervention funds may be used to
16 broaden the provision of community-based mental health services
17 by adding prevention and early intervention services or activities
18 to these services.

19 (f) In consultation with mental health stakeholders, and
20 consistent with guidelines from the Mental Health Services
21 Oversight and Accountability Commission, pursuant to Section
22 5846, the department shall revise the program elements in Section
23 5840 applicable to all county mental health programs in future
24 years to reflect what is learned about the most effective prevention
25 and intervention programs for children, adults, and seniors.

26 SEC. 4. Section 5890 of the Welfare and Institutions Code is
27 amended to read:

28 5890. (a) The Mental Health Services Fund is hereby created
29 in the State Treasury. The fund shall be administered by the state.
30 Notwithstanding Section 13340 of the Government Code, all
31 moneys in the fund are, except as provided in subdivision (d) of
32 Section 5892, continuously appropriated, without regard to fiscal
33 years, for the purpose of funding the following programs and other
34 related activities as designated by other provisions of this division:

35 (1) Part 3 (commencing with Section 5800), the Adult and Older
36 Adult *Mental Health* System of Care Act.

37 (2) Part 3.2 (commencing with Section 5830), Innovative
38 Programs.

39 (3) Part 3.6 (commencing with Section 5840), Prevention and
40 Early Intervention Programs.

1 (4) Part 4 (commencing with Section 5850), the Children’s
2 Mental Health Services Act.

3 (5) *Article 9 (commencing with Section 5345) of Chapter 2 of*
4 *Part 1, Laura’s Law.*

5 (b) Nothing in the establishment of this fund, nor any other
6 provisions of the act establishing it or the programs funded shall
7 be construed to modify the obligation of health care service plans
8 and disability insurance policies to provide coverage for mental
9 health services, including those services required under Section
10 1374.72 of the Health and Safety Code and Section 10144.5 of the
11 Insurance Code, related to mental health parity. Nothing in this
12 act shall be construed to modify the oversight duties of the
13 Department of Managed Health Care or the duties of the
14 Department of Insurance with respect to enforcing these obligations
15 of plans and insurance policies.

16 (c) Nothing in this act shall be construed to modify or reduce
17 the existing authority or responsibility of the State Department of
18 Health Care Services.

19 (d) The State Department of Health Care Services shall seek
20 approval of all applicable federal Medicaid approvals to maximize
21 the availability of federal funds and eligibility of participating
22 children, adults, and seniors for medically necessary care.

23 (e) Share of costs for services pursuant to Part 3 (commencing
24 with Section 5800), and Part 4 (commencing with Section 5850)
25 of this division, shall be determined in accordance with the
26 Uniform Method for Determining Ability to Pay applicable to
27 other publicly funded mental health services, unless this Uniform
28 Method is replaced by another method of determining co-payments,
29 in which case the new method applicable to other mental health
30 services shall be applicable to services pursuant to Part 3
31 (commencing with Section 5800), and Part 4 (commencing with
32 Section 5850) of this division.

33 SEC. 5. Section 5892 of the Welfare and Institutions Code is
34 amended to read:

35 5892. (a) In order to promote efficient implementation of ~~this~~
36 ~~act~~ *the Mental Health Services Act*, the county shall use funds
37 distributed from the Mental Health Services Fund as follows:

38 (1) In 2005–06, 2006–07, and in 2007–08 10 percent shall be
39 placed in a trust fund to be expended for education and training
40 programs pursuant to Part 3.1 (*commencing with Section 5820*).

1 (2) In 2005–06, 2006–07 and in 2007–08 10 percent for capital
2 facilities and technological needs distributed to counties in
3 accordance with a formula developed in consultation with the
4 California Mental Health Directors Association to implement plans
5 developed pursuant to Section 5847.

6 (3) Twenty percent of funds distributed to the counties pursuant
7 to subdivision (c) of Section 5891 shall be used for prevention and
8 early intervention programs in accordance with Part 3.6
9 (commencing with Section 5840) ~~of this division.~~

10 (4) The expenditure for prevention and early intervention may
11 be increased in any county in which the department determines
12 that the increase will decrease the need and cost for additional
13 services to severely mentally ill persons in that county by an
14 amount at least commensurate with the proposed increase.

15 (5) The balance of funds shall be distributed to county mental
16 health programs for services to persons with severe mental illnesses
17 pursuant to Part 4 (commencing with Section 5850), for the
18 children’s system of ~~care~~ and care, Part 3 (commencing with
19 Section 5800), for the adult and older adult system of ~~care~~ care,
20 and Article 9 (commencing with Section 5345) of Chapter 2 of
21 Part 1.

22 (6) Five percent of the total funding for each county mental
23 health program for Part 3 (commencing with Section 5800), Part
24 3.6 (commencing with Section 5840), and Part 4 (commencing
25 with Section 5850) of this division, shall be utilized for innovative
26 programs in accordance with Sections 5830, 5847, and 5848.

27 (b) In any year after 2007–08, programs for services pursuant
28 to Part 3 (commencing with Section 5800), and Part 4
29 (commencing with Section 5850) of this division may include
30 funds for technological needs and capital facilities, human resource
31 needs, and a prudent reserve to ensure services do not have to be
32 significantly reduced in years in which revenues are below the
33 average of previous years. The total allocation for purposes
34 authorized by this subdivision shall not exceed 20 percent of the
35 average amount of funds allocated to that county for the previous
36 five years pursuant to this section.

37 (c) The allocations pursuant to subdivisions (a) and (b) shall
38 include funding for annual planning costs pursuant to Section 5848.
39 The total of these costs shall not exceed 5 percent of the total of
40 annual revenues received for the fund. The planning costs shall

1 include funds for county mental health programs to pay for the
2 costs of consumers, family members, and other stakeholders to
3 participate in the planning process and for the planning and
4 implementation required for private provider contracts to be
5 significantly expanded to provide additional services pursuant to
6 Part 3 (commencing with Section 5800), and Part 4 (commencing
7 with Section 5850) of this division.

8 (d) Prior to making the allocations pursuant to subdivisions (a),
9 (b), and (c), funds shall be reserved for the costs for the State
10 Department of Health Care Services, the California Mental Health
11 Planning Council, the Office of Statewide Health Planning and
12 Development, the Mental Health Services Oversight and
13 Accountability Commission, the State Department of Public Health,
14 and any other state agency to implement all duties pursuant to the
15 programs set forth in this section. These costs shall not exceed 3.5
16 percent of the total of annual revenues received for the fund. The
17 administrative costs shall include funds to assist consumers and
18 family members to ensure the appropriate state and county agencies
19 give full consideration to concerns about quality, structure of
20 service delivery, or access to services. The amounts allocated for
21 administration shall include amounts sufficient to ensure adequate
22 research and evaluation regarding the effectiveness of services
23 being provided and achievement of the outcome measures set forth
24 in Part 3 (commencing with Section 5800), Part 3.6 (commencing
25 with Section 5840), and Part 4 (commencing with Section 5850)
26 of this division. The amount of funds available for the purposes
27 of this subdivision in any fiscal year shall be subject to
28 appropriation in the annual Budget Act.

29 (e) In 2004–05 funds shall be allocated as follows:

30 (1) Forty-five percent for education and training pursuant to
31 Part 3.1 (commencing with Section 5820) of this division.

32 (2) Forty-five percent for capital facilities and technology needs
33 in the manner specified by paragraph (2) of subdivision (a).

34 (3) Five percent for local planning in the manner specified in
35 subdivision (c).

36 (4) Five percent for state implementation in the manner specified
37 in subdivision (d).

38 (f) Each county shall place all funds received from the State
39 Mental Health Services Fund in a local Mental Health Services
40 Fund. The Local Mental Health Services Fund balance shall be

1 invested consistent with other county funds and the interest earned
2 on the investments shall be transferred into the fund. The earnings
3 on investment of these funds shall be available for distribution
4 from the fund in future years.

5 (g) All expenditures for county mental health programs shall
6 be consistent with a currently approved plan or update pursuant
7 to Section 5847.

8 (h) Other than funds placed in a reserve in accordance with an
9 approved plan, any funds allocated to a county which have not
10 been spent for their authorized purpose within three years shall
11 revert to the state to be deposited into the fund and available for
12 other counties in future years, provided however, that funds for
13 capital facilities, technological needs, or education and training
14 may be retained for up to 10 years before reverting to the fund.

15 (i) If there are still additional revenues available in the fund
16 after the Mental Health Services Oversight and Accountability
17 Commission has determined there are prudent reserves and no
18 unmet needs for any of the programs funded pursuant to this
19 section, including all purposes of the Prevention and Early
20 Intervention Program, the commission shall develop a plan for
21 expenditures of these revenues to further the purposes of this act
22 and the Legislature may appropriate these funds for any purpose
23 consistent with the commission's adopted plan which furthers the
24 purposes of this act.

25 ~~(j) For the 2011-12 fiscal year, General Fund revenues will be~~
26 ~~insufficient to fully fund many existing mental health programs,~~
27 ~~including Early and Periodic Screening, Diagnosis, and Treatment~~
28 ~~(EPSDT), Medi-Cal Specialty Mental Health Managed Care, and~~
29 ~~mental health services provided for special education pupils. In~~
30 ~~order to adequately fund those programs for the 2011-12 fiscal~~
31 ~~year and avoid deeper reductions in programs that serve individuals~~
32 ~~with severe mental illness and the most vulnerable, medically~~
33 ~~needy citizens of the state, prior to distribution of funds under~~
34 ~~paragraphs (1) to (6), inclusive, of subdivision (a), effective July~~
35 ~~1, 2011, moneys shall be allocated from the Mental Health Services~~
36 ~~Fund to the counties as follows:~~

37 ~~(1) Commencing July 1, 2011, one hundred eighty-three million~~
38 ~~six hundred thousand dollars (\$183,600,000) of the funds available~~
39 ~~as of July 1, 2011, in the Mental Health Services Fund, shall be~~
40 ~~allocated in a manner consistent with subdivision (c) of Section~~

1 ~~5778 and based on a formula determined by the state in~~
2 ~~consultation with the California Mental Health Directors~~
3 ~~Association to meet the fiscal year 2011-12 General Fund~~
4 ~~obligation for Medi-Cal Specialty Mental Health Managed Care.~~

5 ~~(2) Upon completion of the allocation in paragraph (1), the~~
6 ~~Controller shall distribute to counties ninety-eight million five~~
7 ~~hundred eighty-six thousand dollars (\$98,586,000) from the Mental~~
8 ~~Health Services Fund for mental health services for special~~
9 ~~education pupils based on a formula determined by the state in~~
10 ~~consultation with the California Mental Health Directors~~
11 ~~Association.~~

12 ~~(3) Upon completion of the allocation in paragraph (2), the~~
13 ~~Controller shall distribute to counties 50 percent of their 2011-12~~
14 ~~Mental Health Services Act component allocations consistent with~~
15 ~~Sections 5847 and 5891, not to exceed four hundred eighty-eight~~
16 ~~million dollars (\$488,000,000). This allocation shall commence~~
17 ~~beginning August 1, 2011.~~

18 ~~(4) Upon completion of the allocation in paragraph (3), and as~~
19 ~~revenues are deposited into the Mental Health Services Fund, the~~
20 ~~Controller shall distribute five hundred seventy-nine million dollars~~
21 ~~(\$579,000,000) from the Mental Health Services Fund to counties~~
22 ~~to meet the General Fund obligation for EPSDT for fiscal year~~
23 ~~2011-12. These revenues shall be distributed to counties on a~~
24 ~~quarterly basis and based on a formula determined by the state in~~
25 ~~consultation with the California Mental Health Directors~~
26 ~~Association. These funds shall not be subject to reconciliation or~~
27 ~~cost settlement.~~

28 ~~(5) The Controller shall distribute to counties the remaining~~
29 ~~2011-12 Mental Health Services Act component allocations~~
30 ~~consistent with Sections 5847 and 5891, beginning no later than~~
31 ~~April 30, 2012. These remaining allocations shall be made on a~~
32 ~~monthly basis.~~

33 ~~(6) The total one-time allocation from the Mental Health~~
34 ~~Services Fund for EPSDT, Medi-Cal Specialty Mental Health~~
35 ~~Managed Care, and mental health services provided to special~~
36 ~~education pupils as referenced shall not exceed eight hundred~~
37 ~~sixty-two million dollars (\$862,000,000). Any revenues deposited~~
38 ~~in the Mental Health Services Fund in fiscal year 2011-12 that~~
39 ~~exceed this obligation shall be distributed to counties for remaining~~

- 1 ~~fiscal year 2011–12 Mental Health Services Act component~~
- 2 ~~allocations, consistent with Sections 5847 and 5891.~~
- 3 ~~(k) Subdivision (j) shall not be subject to repayment.~~
- 4 ~~(l) Subdivision (j) shall become inoperative on July 1, 2012.~~

O