

AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1113**

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**Introduced by Senator Beall**

February 17, 2016

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*An act to add Section 56601.3 to the Education Code, to add Section 1374.18 to the Health and Safety Code, to add Section 10123.23 to the Insurance Code, and to add Section 5846.5 to, and to add Part 6 (commencing with Section 5920) to Division 5 of, the Welfare and Institutions Code, relating to pupil health.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1113, as amended, Beall. Pupil health: ~~mental health services; funding; health.~~

*Existing law requires school districts, county offices of education, and special education local plan areas (SELPA) to comply with state laws that conform to the federal Individuals with Disabilities Education Act, in order that the state may qualify for federal funds available for the education of individuals with exceptional needs. Existing law requires school districts, county offices of education, and SELPA to identify, locate, and assess individuals with exceptional needs and to provide those pupils with a free appropriate public education in the least restrictive environment, and with special education and related services, including mental health services, as reflected in an individualized education program.*

*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 (MHSA), 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 MHSA establishes the Mental Health Services Oversight and Accountability Commission to oversee the administration of various provisions of the act.*

*This bill would specifically authorize a county and a local educational agency to enter into a partnership that includes, among other things, an agreement between the county mental health plan and the local educational agency 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 local educational agency 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 students not in special education who a teacher believes may require those services and, with parental consent, to provide mental health services to those students. The bill would require the commission to provide guidance and best-practices guidelines for counties that choose to implement partnership programs for early intervention and prevention with local educational agencies and public schools pursuant to these provisions.*

*Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the licensure and regulation of health care service plans by the Department of Managed Health Care and makes a willful violation of the act a crime. Existing law also provides for the regulation of health insurers by the Department of Insurance.*

*This bill would require 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 pursuant to a partnership described above, as specified. Because a violation of that provision would be a crime, the bill would impose a state-mandated local program. The bill would also require 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 pursuant to a program meeting the criteria set forth above, as specified.*

*Existing law requires, pursuant to specified provisions of federal law, each special education local plan area to annually report to the Superintendent of Public Instruction the number of pupils receiving special education services participating in the regular school and district assessments and the number participating in an alternate assessment process.*

*This bill would require the Department of Education to expand its reporting system for mental health services provided pursuant to an individual education plan pursuant to the federal Individuals with Disabilities Education Act for children with a primary mental health diagnosis as emotional disturbance to include academic performance and any measures included within the State Department of Health Care Services' Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) mental health services performance outcome system within 18 months after those measures have been adopted by the State Department of Health Care Services. The bill would also require the Department of Education to enter into an agreement with the State Department of Health Care Services to provide academic performance data to the Department of Health Care Services for utilization in its performance outcome system regarding individuals enrolled in Medi-Cal and special education who receive mental health services.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law requires each special education local plan area submitting a local plan to the Superintendent of Public Instruction to ensure that its policies, procedures, and programs are consistent with state and federal laws governing, among other things, free appropriate public education and individualized education programs, and requires the local plan to contain specified information, including an annual budget plan.~~

~~Existing law provides for the Medi-Cal program under which qualified low-income individuals receive health care services. Existing law provides that Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) for any individual under 21 years of age is covered under Medi-Cal, consistent with the requirements of federal law.~~

~~This bill would declare the intent of the Legislature to enact legislation relating to mental health services in schools that would require counties to enter into agreements with special education local plan areas to allow access to Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) funding through the county mental health programs by providing EPSDT mental health services.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

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

1     *SECTION 1. Section 56601.3 is added to the Education Code,*  
2     *to read:*

3     56601.3. (a) *The Department of Education shall expand its*  
4     *reporting system for mental health services provided pursuant to*  
5     *an individual education plan pursuant to the federal Individuals*  
6     *with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) for*  
7     *children with a primary mental health diagnosis as emotional*  
8     *disturbance to include academic performance and any measures*  
9     *included within the State Department of Health Care Services’*  
10    *Early and Periodic Screening, Diagnosis, and Treatment (EPSDT)*  
11    *mental health services performance outcome system within 18*  
12    *months after those measures have been adopted by the State*  
13    *Department of Health Care Services.*

14    (b) *The Department of Education shall enter into an agreement*  
15    *with the State Department of Health Care Services to provide*  
16    *academic performance data to the State Department of Health*  
17    *Care Services for utilization in its performance outcome system*  
18    *regarding individuals enrolled in Medi-Cal and special education*  
19    *who receive mental health services.*

20    SEC. 2. *Section 1374.18 is added to the Health and Safety*  
21    *Code, to read:*

22    1374.18. *A health care service plan shall reimburse services*  
23    *provided by a mental health provider operating within the scope*  
24    *of its practice for services provided on a school campus pursuant*  
25    *to a program meeting the criteria set forth in Section 5920 of the*  
26    *Welfare and Institutions Code as if the services were authorized*  
27    *by a provider authorized to make that authorization. If the provider*  
28    *is a member of the health care service plan’s network of providers,*  
29    *the reimbursement shall be in accordance with the health care*  
30    *service plan’s contract with that provider. If the provider is not*  
31    *part of the health care service plan’s network, the services shall*  
32    *be reimbursed in the manner provided for out of network services*  
33    *in the same manner as out of network services for patients who*  
34    *are traveling to a location where there is no in network provider*  
35    *available.*

36    SEC. 3. *Section 10123.23 is added to the Insurance Code, to*  
37    *read:*

1     10123.23. A health insurer shall reimburse services provided  
2 by a mental health provider operating within the scope of its  
3 practice for services provided on a school campus pursuant to a  
4 program meeting the criteria set forth in Section 5920 of the  
5 Welfare and Institutions Code as if the services were authorized  
6 by a provider authorized to make that authorization. If the provider  
7 is a member of the health insurer's network of providers, the  
8 reimbursement shall be in accordance with the health insurer's  
9 contract with that provider. If the provider is not part of the health  
10 insurer's network, the services shall be reimbursed in the manner  
11 provided for out of network services in the same manner as out of  
12 network services for patients who are traveling to a location where  
13 there is no in network provider available.

14     SEC. 4. Section 5846.5 is added to the Welfare and Institutions  
15 Code, to read:

16     5846.5. The commission shall provide guidance and  
17 best-practices guidelines for counties that choose to implement  
18 partnership programs for early intervention and prevention with  
19 local educational agencies and public schools pursuant to Section  
20 5920.

21     SEC. 5. Part 6 (commencing with Section 5920) is added to  
22 Division 5 of the Welfare and Institutions Code, to read:

23  
24     PART 6. COUNTY AND LOCAL EDUCATIONAL AGENCY  
25                     PARTNERSHIPS  
26

27     5920. (a) Notwithstanding any other law, a county and a local  
28 educational agency may enter into a partnership that includes all  
29 of the following:

30     (1) An agreement between the county mental health plan and  
31 the local educational agency that establishes a Medi-Cal mental  
32 health provider that is county operated or county contracted, for  
33 the provision of mental health services to students of the local  
34 educational agency and in which there are provisions for the  
35 delivery of campus-based mental health services through qualified  
36 mental health clinicians to provide on-campus support to identify  
37 students not in special education who a teacher believes may  
38 require those services and, with parental consent, to provide mental  
39 health services to those students.

1     (2) *The county mental health plan and the local educational*  
2 *agency utilize designated governmental funds as required match*  
3 *for eligible Medi-Cal Early and Periodic Screening, Diagnosis,*  
4 *and Treatment (EPSDT) reimbursement for services provided to*  
5 *students enrolled in Medi-Cal, for mental health service costs for*  
6 *non-Medi-Cal enrolled students in special education with an*  
7 *individual education plan (IEP) pursuant to the federal Individuals*  
8 *with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), and*  
9 *for students not part of special education if the services are*  
10 *provided by a provider specified in paragraph (1).*

11     (3) *The county mental health plan provider bills non-Medi-Cal*  
12 *insurers for services to students with health insurance for*  
13 *non-IEP-related covered services, and the relevant insurer*  
14 *reimburses the provider for these services at the usual rates paid*  
15 *for out of network mental health services as set forth in Section*  
16 *1374.18 of the Health and Safety Code and Section 10123.23 of*  
17 *the Insurance Code.*

18     (4) *The local educational agency, with permission of the*  
19 *student's parent, provides the county mental health plan provider*  
20 *with the information of the health insurance carrier for each*  
21 *student.*

22     (5) *The local educational agency covers the costs of mental*  
23 *health provider services not reimbursed by funds pursuant to*  
24 *paragraph (2) or (3) in the event that mental health service costs*  
25 *exceed the agreed upon funding outlined in the partnership*  
26 *agreement between the county mental health plan and the local*  
27 *educational agency following a year-end cost reconciliation*  
28 *process, and in the event that the local educational agency does*  
29 *not elect to provide the services through other means.*

30     (6) *The county mental health plan participates in any*  
31 *performance outcome system established by the State Department*  
32 *of Health Care Services or the Mental Health Services Oversight*  
33 *and Accountability Commission to measure results of services*  
34 *provided under the partnership agreement between the county*  
35 *mental health plan and the local educational agency.*

36     (7) *The local educational agency participates in any*  
37 *performance system established by the Department of Education*  
38 *pursuant to Section 56601.3 of the Education Code to measure*  
39 *performance of special education mental health services and other*  
40 *mental health services provided under the partnership agreement*

1 *between the county mental health plan and the local educational*  
2 *agency.*

3 *(8) A plan to establish a partnership described in this section*  
4 *in at least three schools within the local educational agency in the*  
5 *first year and to expand the partnership to three additional schools*  
6 *in the second year.*

7 *(b) For purposes of this section, “local educational agency”*  
8 *has the same meaning as that term is defined in Section 56026.3*  
9 *of the Education Code.*

10 *SEC. 6. No reimbursement is required by this act pursuant to*  
11 *Section 6 of Article XIII B of the California Constitution because*  
12 *the only costs that may be incurred by a local agency or school*  
13 *district will be incurred because this act creates a new crime or*  
14 *infraction, eliminates a crime or infraction, or changes the penalty*  
15 *for a crime or infraction, within the meaning of Section 17556 of*  
16 *the Government Code, or changes the definition of a crime within*  
17 *the meaning of Section 6 of Article XIII B of the California*  
18 *Constitution.*

19 ~~SECTION 1. It is the intent of the Legislature to enact~~  
20 ~~legislation relating to mental health services in schools that would~~  
21 ~~require counties to enter into agreements with special education~~  
22 ~~local plan areas to allow the special education local plan areas and~~  
23 ~~the local educational agencies to access Early and Periodic~~  
24 ~~Screening, Diagnostic, and Treatment (EPSDT) funding through~~  
25 ~~the county mental health programs by providing EPSDT mental~~  
26 ~~health services.~~