

AMENDED IN SENATE APRIL 12, 2016
AMENDED IN SENATE MARCH 28, 2016

SENATE BILL

No. 1113

Introduced by Senator Beall

February 17, 2016

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.

Existing law requires school districts, county offices of education, and special education local plan areas (SELPA's) 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's 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~~, *county operated or county contracted* for the provision of mental health services to ~~students~~ *pupils* 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~~ *pupils* not in special education who a teacher believes may require those services and, with parental consent, to provide mental health services to those ~~students~~. *pupils*. 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.

The bill would require funds made available in the annual Budget Act for the purpose of providing educationally related mental health services required by an individualized education program to be used only for that purpose unless the State Board of Education grants a waiver allowing those funds to be expended for other purposes.

~~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~~ *SELPA* 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 *State* Department of Education to expand its reporting system for mental health services provided pursuant to an ~~individual~~ *individualized* education ~~plan~~ *program* 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 *State* Department of Education to enter into an agreement with the State Department of Health Care Services to provide academic performance data to the *State* 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.~~

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

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 *State* Department of Education shall expand
- 4 its reporting system for mental health services provided pursuant
- 5 to an ~~individual~~ *individualized* education ~~plan~~ *program* pursuant
- 6 to the federal Individuals with Disabilities Education Act (20
- 7 U.S.C. Sec. 1400 et seq.) for children with a primary mental health
- 8 diagnosis as emotional disturbance to include academic
- 9 performance and any measures included within the State

1 Department of Health Care Services' Early and Periodic Screening,
2 Diagnosis, and Treatment (EPSDT) mental health services
3 performance outcome system within 18 months after those
4 measures have been adopted by the State Department of Health
5 Care Services.

6 (b) The *State* Department of Education shall enter into an
7 agreement with the State Department of Health Care Services to
8 provide academic performance data to the State Department of
9 Health Care Services for utilization in its performance outcome
10 system regarding individuals enrolled in Medi-Cal and special
11 education who receive mental health services.

12 ~~SEC. 2. Section 1374.18 is added to the Health and Safety~~
13 ~~Code, to read:~~

14 ~~1374.18. A health care service plan shall reimburse services~~
15 ~~provided by a mental health provider operating within the scope~~
16 ~~of its practice for services provided on a school campus pursuant~~
17 ~~to a program meeting the criteria set forth in Section 5920 of the~~
18 ~~Welfare and Institutions Code as if the services were authorized~~
19 ~~by a provider authorized to make that authorization. If the provider~~
20 ~~is a member of the health care service plan's network of providers,~~
21 ~~the reimbursement shall be in accordance with the health care~~
22 ~~service plan's contract with that provider. If the provider is not~~
23 ~~part of the health care service plan's network, the services shall~~
24 ~~be reimbursed in the manner provided for out-of-network services~~
25 ~~in the same manner as out-of-network services for patients who~~
26 ~~are traveling to a location where there is no in-network provider~~
27 ~~available.~~

28 ~~SEC. 3. Section 10123.23 is added to the Insurance Code, to~~
29 ~~read:~~

30 ~~10123.23. A health insurer shall reimburse services provided~~
31 ~~by a mental health provider operating within the scope of its~~
32 ~~practice for services provided on a school campus pursuant to a~~
33 ~~program meeting the criteria set forth in Section 5920 of the~~
34 ~~Welfare and Institutions Code as if the services were authorized~~
35 ~~by a provider authorized to make that authorization. If the provider~~
36 ~~is a member of the health insurer's network of providers, the~~
37 ~~reimbursement shall be in accordance with the health insurer's~~
38 ~~contract with that provider. If the provider is not part of the health~~
39 ~~insurer's network, the services shall be reimbursed in the manner~~
40 ~~provided for out-of-network services in the same manner as~~

1 ~~out-of-network services for patients who are traveling to a location~~
2 ~~where there is no in-network provider available.~~

3 ~~SEC. 4.~~

4 ~~SEC. 2.~~ Section 5846.5 is added to the Welfare and Institutions
5 Code, to read:

6 5846.5. The commission shall provide guidance and
7 best-practices guidelines for counties that choose to implement
8 partnership programs for early intervention and prevention with
9 local educational agencies and public schools pursuant to Section
10 5920.

11 ~~SEC. 5.~~

12 ~~SEC. 3.~~ Part 6 (commencing with Section 5920) is added to
13 Division 5 of the Welfare and Institutions Code, to read:

14
15 PART 6. COUNTY AND LOCAL EDUCATIONAL AGENCY
16 PARTNERSHIPS
17

18 5920. (a) Notwithstanding any other law, a county and a local
19 educational agency may enter into a partnership that includes all
20 of the following:

21 (1) An agreement between the county mental health plan and
22 the local educational agency that establishes a Medi-Cal mental
23 health provider that is county operated or county contracted, for
24 the provision of mental health services to ~~students~~ *pupils* of the
25 local educational agency and in which there are provisions for the
26 delivery of campus-based mental health services through qualified
27 mental health clinicians to provide on-campus support to identify
28 ~~students~~ *pupils* not in special education who a teacher believes
29 may require those services and, with parental consent, to provide
30 mental health services to those ~~students~~ *pupils*.

31 (2) The county mental health plan and the local educational
32 agency utilize designated governmental funds as required match
33 for eligible Medi-Cal Early and Periodic Screening, Diagnosis,
34 and Treatment (EPSDT) reimbursement for services provided to
35 ~~students~~ *pupils* enrolled in Medi-Cal, for mental health service
36 costs for non-Medi-Cal enrolled ~~students~~ *pupils* in special education
37 with ~~an individual individualized education plan (IEP) programs~~
38 (*IEPs*) pursuant to the federal Individuals with Disabilities
39 Education Act (20 U.S.C. Sec. 1400 et seq.), and for ~~students~~ *pupils*

1 not part of special education if the services are provided by a
2 provider specified in paragraph (1).

3 (3) The county mental health plan provider bills non-Medi-Cal
4 insurers for services to ~~students~~ *pupils* with health insurance for
5 non-IEP-related covered services, and the relevant insurer
6 reimburses the provider for these services at the usual rates paid
7 for out-of-network mental health ~~services as set forth in Section~~
8 ~~1374.18 of the Health and Safety Code and Section 10123.23 of~~
9 ~~the Insurance Code.~~ *services.*

10 (4) The local educational agency, with permission of the
11 ~~student's~~ *pupil's* parent, provides the county mental health plan
12 provider with the information of the health insurance carrier for
13 each ~~student.~~ *pupil.*

14 (5) The local educational agency covers the costs of mental
15 health provider services not reimbursed by funds pursuant to
16 paragraph (2) or (3) in the event that mental health service costs
17 exceed the agreed-upon funding outlined in the partnership
18 agreement between the county mental health plan and the local
19 educational agency following a yearend cost reconciliation process,
20 and in the event that the local educational agency does not elect
21 to provide the services through other means.

22 (6) The county mental health plan participates in any
23 performance outcome system established by the State Department
24 of Health Care Services or the Mental Health Services Oversight
25 and Accountability Commission to measure results of services
26 provided under the partnership agreement between the county
27 mental health plan and the local educational agency.

28 (7) The local educational agency participates in any performance
29 system established by the *State* Department of Education pursuant
30 to Section 56601.3 of the Education Code to measure performance
31 of special education mental health services and other mental health
32 services provided under the partnership agreement between the
33 county mental health plan and the local educational agency.

34 (8) A plan to establish a partnership described in this section in
35 at least three schools within the local educational agency in the
36 first year and to expand the partnership to three additional schools
37 in the second year.

38 *(b) Funds made available in the annual Budget Act for the*
39 *purpose of providing educationally related mental health services,*
40 *including out-of-home residential services for emotionally*

1 *disturbed pupils, required by an individualized education program*
2 *shall be used only for that purpose unless the State Board of*
3 *Education grants a waiver allowing those funds to be expended*
4 *for other purposes.*

5 (b)

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

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