

AMENDED IN ASSEMBLY JUNE 8, 2016

AMENDED IN SENATE APRIL 14, 2016

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, and amend Section 14707.5 of, and to add Part 6 (commencing with Section 5920) to Division 5 of 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 (SELPAs) 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 SELPAs 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~~ *a county, or a qualified provider operating as part of the county mental health plan network,* and a local educational agency to enter into a partnership that includes, among other things, an agreement between the county mental health ~~plan~~ *plan, or the qualified provider,* 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 pupils of the local educational agency and in which there are provisions for the delivery of campus-based mental health services through qualified providers or qualified professionals to provide on-campus support to identify pupils not in special education who a teacher believes may require those services and, with parental consent, to provide mental health services to those pupils. The bill would create the County and Local Educational Agency Partnership Fund in the State Treasury, which would be available, upon appropriation by the Legislature, to the State Department of Education for the purpose of funding these partnerships, as specified, and would require the State Department of Education to fund these partnerships through a competitive grant program.

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 requires, pursuant to specified provisions of federal law, each 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 individualized education 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 relevant academic performance data, as determined by the State Department of Education, 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.~~

Existing law requires the State Department of Health Care Services, in collaboration with the California Health and Human Services Agency, and in consultation with the Mental Health Services Oversight and Accountability Commission, to create a plan for a performance outcome system for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) mental health services provided to specified eligible Medi-Cal beneficiaries.

This bill would additionally require the State Department of Health Care Services to identify children with an individualized education program who have a primary mental health diagnosis as emotional disturbance and to collect, utilize in the performance outcome system, and include in its reporting academic performance data and other specified data for those children. The bill would also require the State Department of Health Care Services to enter into an agreement with the State Department of Education for the State Department of Education to provide to the State Department of Health Care Services relevant academic performance data.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: 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 individualized education program pursuant to the federal~~
- 6 ~~Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400~~

et seq.) 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 described in Section 14707.5 of the Welfare and Institutions Code within 18 months after those measures have been adopted by the State Department of Health Care Services.

(b) The State Department of Education shall enter into an agreement with the State Department of Health Care Services to provide relevant academic performance data, as determined by the State Department of Education, to the State Department of Health Care Services for utilization in its performance outcome system described in Section 14707.5 of the Welfare and Institutions Code regarding individuals enrolled in Medi-Cal and special education who receive mental health services.

~~SEC. 2.~~

SECTION 1. Part 6 (commencing with Section 5920) is added to Division 5 of the Welfare and Institutions Code, to read:

PART 6. COUNTY AND LOCAL EDUCATIONAL AGENCY
PARTNERSHIPS

5920. (a) Notwithstanding any other law, ~~a county~~ *a county, or a qualified provider operating as part of the county mental health plan network*, and a local educational agency may enter into a partnership that includes all of the following:

(1) An agreement between the county mental health ~~plan~~ *plan, or the qualified provider*, and the local educational agency that establishes a Medi-Cal mental health provider that is county operated or ~~county-contracted~~, *contracted* for the provision of mental health services to pupils of the local educational agency. The agreement may include provisions for the delivery of campus-based mental health services through qualified providers or qualified professionals to provide on-campus support to identify pupils not in special education who a teacher believes may require those services and, with parental consent, to provide mental health services to those pupils.

(2) The county mental health ~~plan~~ *plan, or the qualified provider*, and the local educational agency utilize designated

1 governmental funds ~~as required match~~ for eligible Medi-Cal Early
2 and Periodic Screening, Diagnosis, and Treatment (EPSDT)
3 ~~reimbursement~~ for services provided to pupils enrolled in
4 ~~Medi-Cal~~; *Medi-Cal* for mental health service costs for
5 non-Medi-Cal enrolled pupils in special education with
6 individualized education programs (IEPs) pursuant to the federal
7 Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400
8 et seq.), and for pupils not part of special education if the services
9 are provided by a provider specified in paragraph (1).

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

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

23 (5) The agreement between the county mental health ~~plan~~ *plan*,
24 *or the qualified provider*, and the local educational agency fulfills
25 reporting requirements under state and federal Individuals with
26 Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) and
27 Medi-Cal EPSDT provisions, and measures the effect of the mental
28 health intervention and how that intervention meets the goals in a
29 pupil's IEP or relevant plan for non-IEP pupils.

30 ~~(6) The county mental health plan participates in any~~
31 ~~performance outcome system established by the State Department~~
32 ~~of Health Care Services, including reporting requirements pursuant~~
33 ~~to Section 14707.5, to measure results of services provided under~~
34 ~~the partnership agreement between the county mental health plan~~
35 ~~and the local educational agency.~~

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

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

3 ~~(B) The local educational agency also reports applicable~~
4 ~~information to the performance outcome system established by~~
5 ~~the State Department of Health Care Services described in Section~~
6 ~~14707.5 for those pupils whose information is not reported pursuant~~
7 ~~to paragraph (6).~~

8 *(6) The county mental health plan, or the qualified provider,*
9 *and the local educational agency participate in the performance*
10 *outcome system established by the State Department of Health*
11 *Care Services pursuant to Section 14707.5 to measure results of*
12 *services provided under the partnership agreement between the*
13 *county mental health plan, or the qualified provider, and the local*
14 *educational agency.*

15 ~~(8)~~

16 (7) A plan to establish a partnership described in this section in
17 at least one school within the local educational agency in the first
18 year and to expand the partnership to three additional schools
19 within three years.

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

23 (c) Where applicable, and to the extent mutually agreed to by
24 a school district and a plan or insurer, it is the intent of the
25 Legislature that a health care service plan or a health insurer be
26 authorized to participate in the partnerships described in this part.

27 5921. (a) The County and Local Educational Agency
28 Partnership Fund is hereby created in the State Treasury. Moneys
29 in the fund are available, upon appropriation by the Legislature,
30 to the State Department of Education for the purpose of funding
31 the partnerships described in this part. The State Department of
32 Education shall fund partnerships described in this part through a
33 competitive grant program.

34 (b) (1) For the ~~2017–2018~~ *2017–18* fiscal year and each fiscal
35 year thereafter, to the extent there is an appropriation in the annual
36 Budget Act *or another measure* for purposes of ~~educationally~~
37 ~~related mental health services; this part~~, the Superintendent of
38 Public Instruction shall allocate funds from that appropriation to
39 the County and Local Educational Agency Partnership Fund.

(2) Other funds identified and appropriated by the Legislature may also be deposited into the County and Local Educational Agency Partnership Fund and used for the purposes specified in subdivision (a).

(c) Funds made available in the annual Budget Act for the purpose of providing educationally related mental health services, including out-of-home residential services for emotionally disturbed pupils, required by an individualized education program, shall be used only for that purpose unless the State Board of Education grants a waiver allowing those funds to be expended for other purposes.

SEC. 2. Section 14707.5 of the Welfare and Institutions Code is amended to read:

14707.5. (a) It is the intent of the Legislature to develop a performance outcome system for Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) mental health services that will improve outcomes at the individual and system levels and will inform fiscal decisionmaking related to the purchase of services.

(b) The State Department of Health Care Services, in collaboration with the California Health and Human Services Agency, and in consultation with the Mental Health Services Oversight and Accountability Commission, shall create a plan for a performance outcome system for EPSDT mental health services provided to eligible Medi-Cal beneficiaries under the age of 21 pursuant to 42 U.S.C. Section 1396d(a)(4)(B).

(1) Commencing no later than September 1, 2012, the department shall convene a stakeholder advisory committee comprised of representatives of child and youth clients, family members, providers, counties, and the Legislature. This consultation shall inform the creation of a plan for a performance outcome system for EPSDT mental health services.

(2) In developing a plan for a performance outcomes system for EPSDT mental health services, the department shall consider the following objectives, among others:

(A) High quality and accessible EPSDT mental health services for eligible children and youth, consistent with federal law.

(B) Information that improves practice at the individual, program, and system levels.

(C) Minimization of costs by building upon existing resources to the fullest extent possible.

1 (D) Reliable data that are collected and analyzed in a timely
2 fashion.

3 (3) At a minimum, the plan for a performance outcome system
4 for EPSDT mental health services shall consider evidence-based
5 models for performance outcome systems, such as the Child and
6 Adolescent Needs and Strengths (CANS), federal requirements,
7 including the review by the External Quality Review Organization
8 (EQRO), and, timelines for implementation at the provider, county,
9 and state levels.

10 (c) The State Department of Health Care Services shall provide
11 the performance outcomes system plan, including milestones and
12 timelines, for EPSDT mental health services described in
13 subdivision (a) to all fiscal committees and appropriate policy
14 committees of the Legislature no later than October 1, 2013.

15 (d) The State Department of Health Care Services shall propose
16 how to implement the performance outcomes system plan for
17 EPSDT mental health services described in subdivision (a) no later
18 than January 10, 2014.

19 (e) Commencing no later than February 1, 2014, the department
20 shall convene a stakeholder advisory committee comprised of
21 advocates for and representatives of, child and youth clients, family
22 members, managed care health plans, providers, counties, and the
23 Legislature. The committee shall develop methods to routinely
24 measure, assess, and communicate program information regarding
25 informing, identifying, screening, assessing, referring, and linking
26 Medi-Cal eligible beneficiaries to mental health services and
27 supports. The committee shall also review health plan screenings
28 for mental health illness, health plan referrals to Medi-Cal
29 fee-for-service providers, and health plan referrals to county mental
30 health plans, among others. The committee shall make
31 recommendations to the department regarding performance and
32 outcome measures that will contribute to improving timely access
33 to appropriate care for Medi-Cal eligible beneficiaries.

34 (1) The department shall incorporate into the performance
35 outcomes system established pursuant to this section the screenings
36 and referrals described in this subdivision, including milestones
37 and timelines, and shall provide an updated performance outcomes
38 system plan to all fiscal committees and the appropriate policy
39 committees of the Legislature no later than October 1, 2014.

1 (2) The department shall propose how to implement the updated
2 performance systems outcome plan described in paragraph (1) no
3 later than January 10, 2015.

4 (f) *The department shall identify children with an individualized*
5 *education program who have a primary mental health diagnosis*
6 *as emotional disturbance, and do both of the following:*

7 (1) (A) *Collect and utilize in the performance outcome system*
8 *academic performance data and any other data required for the*
9 *measures included within the performance outcome system for*
10 *these children.*

11 (B) *The department shall enter into an agreement with the State*
12 *Department of Education for the State Department of Education*
13 *to provide to the department relevant academic performance data,*
14 *as determined by the department, in consultation with the State*
15 *Department of Education, for utilization in the performance*
16 *outcome system pursuant to subparagraph (A).*

17 (2) *Within 18 months of the department completing the first*
18 *report on comprehensive performance outcomes pursuant to this*
19 *section, the department shall begin to include the data specified*
20 *in paragraph (1) in its reporting.*