

Date of Hearing: April 24, 2019

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 1098 (O'Donnell) – As Amended April 12, 2019

**[Note: This bill was double referred to the Assembly Health Committee and was heard by that Committee as it relates to issues under its jurisdiction.]**

**SUBJECT:** Substance use disorders: youth programs

**SUMMARY:** Establishes procedures for oversight and accountability of programs funded by Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) through the Youth Education, Prevention, Early Intervention, and Treatment Account (YEPEIT), and aimed at providing substance abuse education and prevention programs and substance use disorder (SUD) treatment, including the identification of targeted outcomes with unspecified metrics, the establishment of a technical advisory committee (TAC), requirements of information to be provided by applicants for program funding, and progress reports to the Legislature. Requires that an unspecified portion of the funds to be used test innovative practices through pilot programs. Specifically, **this bill:**

- 1) Defines, for purposes of this bill, the following terms:
  - a) “Evidence-based program” means a program that has demonstrated positive effects for the intended outcome based on a rigorous evaluation.
  - b) “Evidence-informed program” means a program likely to demonstrate positive effects for the intended outcome, based on evidence and pursuant to a plausible theory of action, and for which rigorous analyses are lacking due to excessive difficulty or impracticability.
  - c) “SUD” means substance use disorder.
  - d) “Theory of action” means a theory that describes how and why an intervention is likely to influence an outcome.
  - e) “Youth” means an individual under 26 years of age.
- 2) Expresses legislative intent that funds in the YEPEIT account be awarded in a manner consistent with the funding allocations specified under AUMA for programs targeted to achieve the outcomes described in 3), that are demonstrated to be effective, and that meet either of the following criteria:
  - a) Are evidence-based programs.
  - b) Are evidence-informed programs.
- 3) Requires that programmatic expenditures for the YEPEIT account target at least one of the following outcomes:

- a) A measureable reduction in SUD prevalence among youth statewide.
  - b) A measureable reduction in mortality and morbidity associated with substance use among youth statewide.
  - c) An improvement in measurable school outcomes, including increased graduation rates, reduced rates of suspension and expulsion, and increased school retention.
- 4) Requires the Department of Health Care Services (DHCS) in collaboration with the Department of Education (CDE) and the Department of Public Health (CDPH) to convene and consult with a TAC to assist the three departments with designing a robust framework for data collection and program evaluation, identifying service needs and gaps, establishing standards for evaluation grant proposals, and facilitating departmental reporting.
- 5) Requires the TAC to:
- a) Be advisory and technical in nature and not have authority to set or recommend goals or provide overall policy direction.
  - b) Be comprised of individuals with expertise in community-based and public programs related to education, school retention, SUD prevention, early intervention, or treatment of SUDs among youth.
  - c) Requires the three departments to ensure that the TAC includes a balanced and equitable representation of members.
  - d) Have members who have expertise in at least one of the following:
    - i) Data collection or analysis.
    - ii) Design and evaluation of public programs.
    - iii) Evaluation of grant proposals.
- 6) Requires TAC members to serve without compensation except that DHCS may, upon appropriation, fund travel expenses incurred by TAC members as a result of participation in the TAC.
- 7) Requires DHCS, in collaboration with DOE and DPH to, no later than July 1, 2020, provide baseline measurements for the outcomes described in 2) and 3) above, and with input from the TAC to identify measureable goals for each outcome within a specified timeframe.
- 8) Requires DHCS to periodically evaluate the programs they are funding to determine the effectiveness of the programs and requires, no later than January 1, 2021, and at least annually thereafter, DHCS to provide to the Legislature, and to make all of the above publicly available on their website, a report detailing the following:
- a) Data measuring outcomes, as described in 2) and 3), and year-over-year trend data that demonstrate the progress that has been attained in meeting target levels for each outcome.

- b) Budget information, including all of the following for the current, prior, and subsequent fiscal years:
  - i) Funding allocated to address each outcome.
  - ii) Allocated funding, disaggregated by county or other geographic region and the basis for that allocation.
  - iii) Breakdown of funded entities by sector.
- 9) Requires the three departments to solicit input from relevant stakeholders in the administration of the grants. Requires stakeholders to include representatives of community-based and statewide organizations involved in youth development, health equity, and capacity building, to ensure that programs selected for funding are culturally and gender competent, trauma-informed, and evidence-based.
- 10) Requires applicants receiving funds from the Account to provide, at a minimum, all of the following:
  - a) Information indicating which outcome is targeted by the program to be funded and the program's expected impact on this outcome.
  - b) Expected populations served.
  - c) Plans for collaboration among local agencies, including public and community-based organizations.
  - d) Evidence upon which the program is based to address one or more outcomes of interest.
- 11) Requires the DHCS, CDE, and CDPH department to provide a summary of the information described in 9) above for each program receiving funding to the Legislature upon request.
- 12) States Legislative intent that:
  - a) Funds in the Account allocated on or before January 1, 2021, be provided for a grant period not to exceed three years.
  - b) Funds in the Account allocated to youth education, prevention, early intervention and SUD treatment will supplement, and not supplant existing funding allocated to those efforts. Allows as provided under AUMA, funds in the Account to be used to facilitate access to, or to improve the quality of existing programs, services, or benefits funded through existing funding streams.
  - c) A portion of funds in the Account of not less than five percent be used to test innovative practices for youth education, prevention, early intervention, and SUD treatment.

- d) Pilot programs funded under this bill include a plan to conduct a robust evaluation including a plan to collect and analyze data sufficient to measure the effectiveness of the program in addressing one or more outcomes described in 3).
  - e) Priority for pilot program funding is to be given to proposals that are likely to demonstrate positive effects for the intended outcome, based on evidence and pursuant to a plausible theory of action, but which currently lacks an evidence base, as well as to those that include collaboration among other agencies.
- 13) Requires DHCS under AUMA, to no later than July 1, 2020, enter into interagency agreements with CDE and CDPH to implement and administer programs described in the areas of jurisdiction of each department.
- 14) Requires the interagency agreements to reflect the need to ensure that funds in the YEPEIT account are utilized to meet the full scope of the purposes of the YEPEIT account, including both school-based education and prevention efforts, as well as community-based early intervention and treatment initiatives.
- 15) Requires the interagency agreements to be regularly reevaluated and modified, as necessary, to ensure effective program administrations.
- 16) Requires expenditures of funds in the YEPEIT account at the state level, upon appropriation, to be limited to the following:
- a) Program administration by DHCS, DOE and DPH, of up to 4% of the funds allocated to the Account for implementation, evaluation and oversight.
  - b) Statewide workforce planning and programs to enhance the number and training of providers of SUD treatment for youth.
  - c) Provision of technical assistance and professional development resources to support local agency efforts and collaborations.
  - d) Public awareness campaigns.
- 17) Requires DHCS in collaboration with DOE and DPH on or before January 1, 2021, to develop a statewide workforce plan to address shortages in providers of SUD treatment for youth and the need for professional development for school-based personnel.

**EXISTING LAW:**

- 1) Establishes DHCS to provide Californians with access to affordable, integrated, high-quality health care, including medical, dental, mental health, substance use treatment services and long-term care; DPH to protect the public's health and to help shape positive health outcomes for individuals, families and communities; and, CDE to oversee the state's diverse public school system.
- 2) Establishes, effective January 1, 2018, a cannabis excise tax to be imposed upon purchasers of cannabis or cannabis products sold in the state at the rate of 15% of the average market

price of any retail sale by a cannabis retailer; pursuant to Proposition 64, the Control, Regulate and Tax Adult Use of Marijuana Act (AUMA) passed by the voters in November of 2016.

- 3) Requires DHCS to enter into interagency agreements with DPH and CDE to implement and administer programs that emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth and their families and caregivers.
- 4) Specifies that the YEPEIT funds above may also be utilized for workforce training and wage structures to increase the hiring pool of behavioral health staff SUD prevention and treatment expertise, and for construction of community-based youth treatment facilities.
- 5) Specifies that the DHCS may contract with each county behavioral health program for the provision of services and that the funds identified in 3) above will be allocated to counties based on demonstrated need, including the number of youth in the county, and the prevalence of SUD among adults.

**FISCAL EFFECT:** Unknown

**COMMENTS:**

***Need for the bill.*** According to the authors, the allocation of funds generated through the legalization of cannabis to youth education, prevention, early intervention and treatment provides a unique opportunity to address the serious issue of SUDs among the youth of California. The Legislature has a responsibility to ensure these funds are allocated to programs which are effective in achieving desirable outcomes, including reductions in substance abuse and improvement in school outcomes. The authors go on to state, that because AUMA lacked clarity and framework for the use of the YEPEIT, this bill provides a framework as well as Legislative accountability and oversight.

***Proposition 64 (AUMA).*** In November 2016, voters passed AUMA, which, among other provisions, allocates 60% of taxes on cannabis, by July 15 of each fiscal year beginning in 2018-19, to the YEPEIT to be administered by DHCS for programs for youth that are designed to educate about and to prevent SUD and to prevent harm from substance abuse. AUMA requires DHCS to enter into interagency agreements with DPH and CDE to implement and administer programs that emphasize accurate education, effective prevention, early intervention, school retention, and timely treatment services for youth and their families and caregivers. Programs are permitted to include components such as:

- 1) Prevention and early intervention services to recognize and reduce risk factors related to substance use and the early signs of problematic use and of SUDs.
- 2) Grants to schools to develop and support student assistance programs to prevent and reduce substance use, improve school retention and performance, support students who are at risk of dropping out of school, and promote alternatives to suspension and expulsion.
- 3) Grants to programs for outreach, education, and treatment for homeless youth and out-of-school youth with substance use disorders.

- 4) Access and linkage to care provided by county behavioral health programs for youth and their families and caregivers who have SUDs or are at risk of developing an SUD.
- 5) Youth-focused SUD programs that are culturally and gender competent, trauma-informed, evidence-based, and provide a continuum of care.

AUMA contains a provision that prohibits the Legislature, prior to July 1, 2028, from changing the allocation to DHCS from the YEPEIT from its stated purposes.

***Informational joint hearing.*** The Senate Health and Education Committees held a joint hearing on February 13, 2019, entitled “Implementing the Control, Regulate and Tax Adult Use of Marijuana Act’s, Youth Education, Prevention, Early Intervention and Treatment Account.”

During the hearing, the Legislative Analyst’s Office (LAO) provided an overview of AUMA as it relates to the YEPEIT and the potential role of the Legislature in the implementation of YEPEIT. The LAO report stated that AUMA is silent on many issues including:

- 1) Specificity of outcomes to be achieved from the YEPEIT.
- 2) Specificity of funding priorities among a long list permissive activities and programs.
- 3) How program spending is to be evaluated and how lessons learned from evaluations could be applied.
- 4) Processes to ensure effective oversight of account spending and program implementation.
- 5) How the three implementing departments (DHCS, CDE, and DPH) are to work together.
- 6) Definition of “youth.”
- 7) Specificity on the universe of entities eligible to receive grant funding.
- 8) Specificity on the amount that can be spent on state-level programmatic (as opposed to administrative) activities.

The LAO stated that the Legislature should be guided by lessons learned from the implementation of Proposition 63 (2004), the Mental Health Services Act, which lacked specificity and direction for major areas of implementation including: development of a robust data collection and evaluation framework, establishment of a set selection of outcomes, protocols for the management of unspent funds and establishment of appropriate reserve levels, determination of the relative importance of prevention/early intervention vs. treatment; and, addressing the workforce capacity issue. These lessons from Prop 63 create an opportunity for the Legislature to provide direction and state its preferences related to YEPEIT spending. The LAO also stated that the Legislature should consider codifying its preferences in statute, while maintaining flexibility to support iterative decision-making. Finally, the LAO concluded the Legislature should consider providing direction with the goal of facilitating good decision-making by the three implementing departments. This bill is in response to the findings and recommendations of the LAO.

**Timing.** Current law authorizes funds to be deposited into the YEPEIT account as early as the 2018-19 fiscal year, however, current projections suggest that funds are likely to be available in this account for the first time in 2019-20. It is necessary that the three departments involved take action to fulfill the requirements of this bill in a timely fashion, including:

- 1) Establishing a TAC.
- 2) Identifying baseline measurements and measureable goals to be achieved no later than July 1, 2020.
- 3) Soliciting input from stakeholders in the administration of the grants.

***Recommended amendment. Staff recommends that the bill be amended:***

- 1) Add an urgency clause so that the bill will take effect immediately to address the growing need to educate about, and prevent the crisis of SUD, and to prevent harm from substance abuse among youth as soon as possible by ensuring sufficient time for DHCS, CDE, and CDPH to enter into the interagency agreements required to appropriately and systematically implement youth programs targeting SUDs.
- 2) Other minor and technical changes.

***Prior and related legislation.***

AB 1031 (Nazarian) of this Session establishes the Youth SUD Treatment and Recovery Program Act of 2019. Requires DHCS to establish community-based nonresidential and residential treatment and recovery programs to intervene and treat the problems of alcohol and drug use among youth under 21 years of age. AB 1031 is pending in the Assembly Appropriations Committee.

AB 1085 (McCarty) of this Session encourages specified after school programs to establish programs that are designed to educate about and prevent SUDs or to prevent harm from substance abuse. Authorizes the DHCS to consider selecting those programs for funding from the Account. AB 1085 is pending in the Assembly Appropriations Committee.

SB 445 (Portantino) of this Session requires DHCS to convene an expert panel on or before January 1, 2021, to advise DHCS solely on the development of youth SUD treatment quality standards, as specified. SB 445 would require DHCS, on or before July 1, 2022, to adopt regulations to establish youth SUD treatment quality standards, as specified. Define youth SUD treatment services as including any publicly funded direct services intended to treat SUD for individuals from birth to 26 years of age, inclusive. SB 445 is pending in the Senate Appropriations Committee.

AB 1135 (Wood) of the 2017-18 Session would have required DPH and CDE to establish an inclusive public stakeholder process to seek input from stakeholders to determine a disbursement formula for the funds provided to DHCS from AUMA. AB 1135 would have required the findings of the stakeholder meetings to be given to DHCS and considered by DHCS when

determining funding priorities for those moneys. AB 1135 was held in the Assembly Appropriations Committee.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

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