Date of Hearing: April 28, 2021

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 309 (Gabriel) – As Introduced January 25, 2021

SUBJECT: Pupil mental health: model referral protocols

SUMMARY: Requires the California Department of Education (CDE) to develop mental health model referral protocols for voluntary use by schools to address the appropriate and timely referral by school staff of students with mental health concerns. Specifically, **this bill**:

1) Requires the CDE to develop model referral protocols for voluntary use by schools to address the appropriate and timely referral by school staff of students with mental health concerns.

2) Requires the CDE to consult with the members of the Student Mental Health Policy Workgroup, local educational agencies (LEAs) that have served as state or regional leaders in student mental health initiatives, county mental health programs, and current classroom teachers and administrators, classified staff, staff who hold student personnel services credentials, school nurses, school counselors and other professionals involved in student mental health, as the CDE deems appropriate.

3) Requires the protocols to be designed for use on a voluntary basis by schoolsites, school districts, county offices of education, charter schools, and the State Special Schools, and by preparation programs for teachers, administrators, school counselors, student personnel services, and school nurses.

4) Requires the protocols to do all of the following:

   a) Address the appropriate and timely referral by school staff of students with mental health concerns;

   b) Reflect a multi-tiered system of support (MTSS) processes and positive behavioral interventions and supports;

   c) Be adaptable to varied local service arrangements for mental health services;

   d) Reflect evidence-based and culturally appropriate approaches to student mental health referral;

   e) Address the inclusion of parents and guardians in the referral process;

   f) Be written to ensure clarity and ease of use by certificated and classified school employees;

   g) Reflect differentiated referral processes for students with disabilities and other populations for whom the referral process may be distinct;

h) Be written to ensure that school employees act only within the authorization or scope of their credential or license; and

i) Be consistent with state activities conducted by the CDE in the administration of federally funded mental health programs.

5) Requires the CDE to consider, when developing protocols, the school mental health referral pathways toolkit developed by the Substance Abuse and Mental Health Services Administration of the U.S. Department of Health and Human Services.

6) Requires the CDE to post the model referral protocols on its website.

7) Provides that nothing in this bill is to be construed as authorizing or encouraging school employees to diagnose or treat mental illness unless they are specifically licensed and employed to do so.

8) Provides that the implementation of this bill is contingent upon funds being appropriated for its purpose, and requires the model referral protocols to be completed and made available within two years of the date funds are received or allocated to implement the provisions of this bill.

EXISTING LAW:

1) Requires LEAs and charter schools serving students in grades 1 to 12 to adopt, at a regularly scheduled meeting, a policy on pupil suicide prevention in grades 1 to 12. (Education Code (EC) 215)

2) Designates school districts as the "responsible agency" for mental health services for students with individualized education programs (IEPs).

3) Through initiative statute in 2004 (Proposition 63), establishes the California Mental Health Services Act (MHSA) which provides for local mental health services, including prevention and early intervention, innovative projects, Full Service Partnerships, peer support services, housing, and other mental health treatment services.

4) Specifies, under federal law, that schools have the responsibility for educationally related mental health services. Requires LEAs to update the IEP of each child that will experience a change in services.

5) Requires, under federal law, the provision of a free, appropriate public education to all disabled students in the least restrictive environment.

6) Specifies that the minimum requirements for the services credential with a specialization in pupil personnel services (PPS) are a baccalaureate degree or higher degree from an approved institution, a fifth year of study, and any specialized and professional preparation that the Commission on Teacher Credentialing (CTC) shall require, including completion of a commission-approved program of supervised field experience that includes direct classroom contact, jointly sponsored by a school district and a college or university. The services credential with a specialization in pupil personnel services authorizes the holder to perform,

at all grade levels, the pupil personnel service approved by the commission as designated on the credential, which may include school counseling, school psychology, child welfare and attendance services, and school social work. (EC 44266)

7) Requires any psychologist employed to provide care to the health and physical development of pupils to hold a school psychologist credential, a general pupil personnel services credential authorizing service as a school psychologist, a standard designated services credential with a specialization in pupil personnel services authorizing service as a psychologist, or a services credential issued by the State Board of Education (SBE) or the CTC. (EC 49422)

8) Prohibits any person who is an employee of a school district from administering psychological tests or engaging in other psychological activities involving the application of psychological principles, methods or procedures unless the person holds a valid and current credential as a school psychologist or is a psychological assistant or intern performing the testing or activities under the supervision of a credentialed psychologist. (EC 49422)

9) Defines "licensed mental health service provider" as "a psychologist licensed by the Board of Psychology, registered psychologist, postdoctoral psychological assistant, postdoctoral psychology trainee employed in an exempt setting pursuant to Section 2910 of the Business and Professions Code, or employed pursuant to a State Department of Health Care Services waiver pursuant to Section 5751.2 of the Welfare and Institutions Code, marriage and family therapist, associate marriage and family therapist, licensed clinical social worker, and associate clinical social worker." (Health and Safety Code 128454)

FISCAL EFFECT: Unknown.

COMMENTS:

Need for the bill. According to the author, "Like parents across California, I'm deeply concerned about the impact the pandemic has had on our kids' mental health and emotional wellbeing. California already was facing a student mental health crisis, and there are concerning signs that the situation has gotten worse as a result of the social isolation and disruption of the past year. This important legislation will equip our teachers with better tools and resources so that they can help our students navigate these extremely challenging times. This will be especially important as we look to reopen our schools and bring students back into the classroom after months of distance learning."

Incidence of mental health and behavioral health issues for children and youth. A 2014 UCLA Policy Brief notes that nearly half of all Americans will need mental health treatment some time during their lifetimes, with initial symptoms frequently occurring in childhood or adolescence. According to a report by the American Institutes for Research (AIR), *Mental Health Needs of Children and Youth,* up to 20% of children in the United States experience a mental, emotional, or behavioral health disorder every year.

According to the Centers for Disease Control and Prevention (CDC), suicide is the second leading cause of death among young people aged 10-24. The CDC also reports that 17% of high school students have seriously considered attempting suicide – and 8% had attempted suicide – in the prior 12 months. According to the Lucile Packard Foundation for Children's Health,

which compiles and reports data from state agency sources, in 2011-13, nearly 20% of California public school students in grades 9 and 11 reported seriously considering attempting suicide in the past year.

Research suggests that numerous factors contribute to the incidence of mental health disorders including living in persistent poverty, which often leads to increased exposure to stressors and trauma. Other factors linked with an increased likelihood of mental health problems, according to the UCLA Center for Health Policy Research, include children in fair or poor health, and children with a parent who had mental health needs or a physical disability.

The COVID-19 pandemic has increased the need for school-based health and mental health services. The American Academy of Pediatrics noted in recent guidance that "emotional and behavioral health challenges were of growing concern before the COVID-19 pandemic, and the public health emergency has only exacerbated these challenges."

Prior to the pandemic, the incidence of youth mental health crises was increasing at an alarming rate. Suicide rates among youth ages 10-24 increased over 57% between 2007 and 2018, and as of 2018 suicide was the second leading cause of death for youth ages 15-19, according to the CDC. Youth visits to pediatric emergency departments for suicide and suicidal ideation also doubled during this time period (Burstein, 2019).

The pandemic has dealt a particularly hard blow to students' mental health and well-being - increasing social isolation, disrupting routines, and eliminating social traditions and rites of passage, while also reducing students' access to schools, which serve as the de facto mental health system for children and adolescents. For students from families also facing economic and other challenges, the crisis is deeper still. The available evidence documents intensifying mental health impacts among students during the pandemic:

- FAIR Health analyzed data from its database of over 32 billion private healthcare insurance claim records, tracking month-by-month changes from January to November 2020 compared to the same months in 2019 and found:

    - Overall Mental Health: In March and April 2020, mental health claim lines for individuals aged 13-18, as a percentage of all medical claim lines, approximately doubled over the same months in the previous year;

    - Intentional Self-Harm: Claims for intentional self-harm as a percentage of all medical claim lines in the 13-18 age group comparing April 2020 to April 2019, doubled (100%);

    - Overdoses: For the age group 13-18, claim lines for overdoses increased by 119% in April 2020 over the same months the year before; and

    - Anxiety and Depressive Disorders: For the age group 13-18, in April 2020, claim lines for generalized anxiety disorder increased 93.6% as a percentage of all medical claim lines over April 2019, while major depressive disorder claim lines increased 84% percent and adjustment disorder claim lines 90% percent. Claims for obsessive compulsive disorder also increased for children aged 6-12.

- According to the CDC, the proportion of children's mental health-related emergency room visits among all pediatric emergency room visits increased and remained elevated through between April and October of 2020. Compared with 2019, the proportion of mental health–related visits for children aged 5–11 and 12–17 years increased approximately 24% and 31%, respectively; and

- A student survey conducted by the ACLU of California at the start of the pandemic found rising rates of adolescent students reporting needing mental health services (22% to 32%), and a decline in reported wellness (from 65% to less than 40%). 23% of students rated their mental wellness at a level requiring immediate intervention.

Importance of prevention and early intervention. Research suggests that nearly half of all children with emotional or behavioral health difficulties receive no mental health services. Among the few children and youth who do receive mental health services, most do so at school. A statewide survey found that 70.8% of California children identified with mental health needs did not receive treatment.

Mental health problems that are not addressed early in life can inflict severe consequences including serious difficulties at home, with peers, and in school; a higher risk for dropping out of school; and increased risk of engaging in substance use, criminal behavior, and other risk-taking behaviors.

School-based and school-linked mental health services for pupils. Across the country, school systems are increasingly joining forces with community health, mental health, and social service agencies to promote student well-being and to prevent and treat mental health disorders. Because children spend more time in school than in community mental health centers, schools are well positioned to link students with mental health services.

Mental health services that are provided in schools may include counseling, brief interventions to address behavior problems, assessments and referrals to other systems. Providing mental health services in a school-based setting helps address barriers to learning and provides supports so that all students can achieve in school and ultimately in life. Schools are also places where prevention and early intervention activities can occur in a non-stigmatizing environment.

Research suggests that comprehensive school mental health programs offer three tiers of support:

- Universal mental health promotion activities for all students;

- Selective prevention services for students identified as at risk for a mental health problem; and

- Indicated services for students who already show signs of a mental health problem.

Schools offering such programs may rely on partnerships with county agencies or community systems, such as community mental health providers or centers, hospitals, and universities. Schools, working with their community partners, can collect prevalence data to build a foundation to plan, develop, and implement comprehensive mental health programs and services through strong school-community partnerships.

Teachers are on the front lines of student mental health crises, but are often not prepared. School personnel who interact with students on a daily basis are in a prime position to recognize mental health problems and make appropriate referrals for help. A national study conducted by the Jason Foundation, for example, found that the number one person a student would contact to help a friend who might be suicidal was a teacher.

According to the CDE Student Mental Health Policy Workgroup (as described below), "research indicates that teachers feel they lack the training needed for supporting children's mental health needs. In surveys, teachers cite disruptive behavior and their lack of information and training in mental health issues as major barriers to instruction." Research indicates that teachers report a lack of experience and training for supporting children's mental health needs (Reinke, 2011).

Student Mental Health Policy Workgroup and other student mental health initiatives. In 2012, the Superintendent of Public Instruction and the California Mental Health Services Agency (CalMHSA) convened a Student Mental Health Policy Workgroup to develop policy recommendations that promote early identification, referral, coordination, and access to quality mental health services for students. The Student Mental Health Policy Workgroup is comprised of teachers, school counselors, school social workers, school psychologists, school nurses, and school administrators, as well as state and county mental health professionals.

The Workgroup noted the connection between mental wellness and academic achievement, attendance, and behavior. It also noted that California's educators acknowledge their lack of preparedness in addressing pupil mental health challenges as a major barrier to instruction. The Workgroup found that "most educators and staff lack training to identify pupils who may be in need of support, make referrals, and, as appropriate, to help pupils overcome or manage mental health barriers and succeed in school." They also noted that mental health challenges disproportionately impact students who face stressors such as violence, trauma, and poverty.

SAMHSA publishes "School Mental Health Referral Pathways Toolkit." In 2015 SAMHSA published a "School Mental Health Referral Pathways Toolkit," which aims "to help state and local education agencies and their partners develop effective systems to refer youth to mental health service providers and related supports.

The Toolkit provides best-practice guidance and practical tools and strategies to improve coordination and collaboration both within schools and between schools and other youth-serving agencies, by providing targeted mental health supports at the earliest sign that a need is present. In particular, the Toolkit focuses on referral pathways, which are defined as the series of actions or steps taken after identifying a youth with a potential mental health issue. The Toolkit notes:

> Referral pathways vary from community to community based on cultural and linguistic considerations and the resources available, including the public and private organizations providing services to school aged youth. School and community-based mental health providers must understand their local community in order to ensure the seamless provision of mental health supports to youth and their families. While mental health referral pathways may involve different partners depending on the community, all effective referral pathways share similar characteristics:
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> - They define the roles and responsibilities of all partners in a system;

- They have clearly articulated procedures for managing referrals within and between partners;

- They share information across partners in an efficient manner;

- They monitor the effectiveness of evidence-based interventions provided by all partners within a system; and

- They make intervention decisions collaboratively with a priority on what is best for young people and their families.

Arguments in support. The California Teachers Association states, "The model protocols are designed for voluntary use by schools, as well as teacher, administrator, school counselor, and school nurse preparation programs. The protocols will ensure school employees will have the resources and guidance to better address the mental health needs of their students. COVID-19 has increased the urgency for legislation of this nature. Early detection and prevention can help address challenges sooner, and save the child trauma and the state money in the long run. An ounce of prevention is truly worth a pound of cure for our children's mental health and livelihood."

Related legislation. AB 2018 (Gabriel) of the 2019-20 Session was substantially similar to this bill. The bill was held in the Assembly Education Committee.

AB 666 (Gabriel) of the 2019-20 Session was also substantially similar to this bill. The bill was held in the Assembly Appropriations Committee.

AB 580 (O'Donnell) of the 2015-16 Session was substantially similar to this bill. It was vetoed by Governor Brown, whose veto message is presented earlier in this analysis.

AB 563 (Berman) of this Session requires the CDE to establish an Office of School-Based Health Programs for the purpose of improving the operation of, and participation in, school-based health programs. The bill requires that $500,000 in federal reimbursements be made available for transfer through an interagency agreement to CDE for the support of the Office.

AB 586 (O'Donnell) of this Session establishes, subject to an appropriation for this purpose, the School Health Demonstration Project to provide intensive technical assistance to selected LEAs to enable the long-term sustainable provision of health and mental health services to pupils.

AB 552 (Quirk-Silva) of this Session authorizes LEAs and county behavioral health agencies to enter into partnerships to provide school-based behavioral health and substance abuse disorder services on school sites, and authorizes the billing of private insurance providers for these services under specified conditions.

AB 883 (O'Donnell) of this Session requires Proposition 63 MHSA funds unused by counties, within a specified period, to be reallocated to LEAs in that county to provide student mental health services.

SB 508 (Stern) of this Session requires health care service plans, health insurers, and Medi-Cal managed care plan to enter into MOUs with all LEAs where 15% or more of the pupils of that LEA are insured by the plan or insurer; authorizes the LEA to bill for mental health and substance use disorder services provided if the plan or insurer fails to enter into a MOU with the LEA; approves telehealth as an approved modality for provision of specified services by an LEA; and authorizes a school district to require parents provide information on a pupil's health care coverage.

SB 14 (Portantino) of this Session adds "for the benefit of the behavioral health of the pupil" to the list of categories of excused absences for purposes of school attendance; requires the CDE to identify an evidence-based training program for LEAs to use to train classified and certificated school employees having direct contact with pupils in youth behavioral health; and an evidence-based behavioral health training program with a curriculum tailored for pupils in grades 10 to 12.

SB 229 (Dahle) of this Session requires the DHCS, in consultation with the CDE, to provide up to $500 million in grants annually to LEAs and private schools to provide mental health services for pupils affected by school closures and distance learning requirements resulting from the COVID-19 pandemic, subject to an appropriation for this purpose.

REGISTERED SUPPORT / OPPOSITION:

Support

California Association for Health, Physical Education, Recreation & Dance
California Association of Student Councils
California School Employees Association
California School Nurses Organization
California State PTA
California Teachers Association
John Burton Advocates for Youth

Opposition

None on file

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