

Date of Hearing: June 27, 2018

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 1019 (Beall) – As Amended June 12, 2018

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

SENATE VOTE: 37-0

SUBJECT: Youth mental health and substance use disorder services

SUMMARY: Authorizes counties and local education agencies to enter into partnerships designed to provide mental health services to pupils and creates the *County and Local Education Agency Partnership Fund* and directs monies from this fund to the California Department of Education to provide funding to these partnerships. Specifically, **this bill:**

- 1) Requires the Mental Health Services Oversight and Accountability Commission (MHSOAC), in allocating funds through the *Investment in Mental Health Awareness Act of 2013*, to allocate at least one-half of the funds to local education agency (LEA) partnerships established pursuant to this section.
- 2) Authorizes, notwithstanding any other law, a county, or a qualified provider operating as part of the county mental health plan network, and an LEA to enter into a partnership that includes all of the following:
 - a) The county mental health plan, or qualified provider, and the LEA use designated governmental funds for eligible Medi-Cal Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services provided to pupils enrolled in Medi-Cal for mental health service costs, for non-Medi-Cal enrolled pupils in special education with individualized education programs (IEPs), and for pupils not part of special education if the services are provided by a specified provider.
 - b) An agreement between the county mental health plan, or the qualified provider, and the LEA for the provision of mental health services to pupils through qualified providers or qualified professionals to pupils with an IEP, and 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.
 - c) The LEA, with permission of the pupil's parent, provides the county mental health plan provider with the information of the health insurance carrier for each pupil.
 - d) An agreement on how to cover the costs of mental health provider services not covered by funds identified in (a) above, in the event that costs exceed the agreed-upon funding outlined in the partnership agreement.
 - e) Acknowledges that the agreement between the county mental health plan, or the qualified provider, and the LEA fulfills reporting and other requirements under IDEA and Medi-

Cal EPSDT provisions, and measures the effect of the mental health intervention and how that intervention meets the goals in a pupil's IEP or relevant plan for non-IEP pupils.

- f) The use of the performance outcome system established by the Department of Health Care Services (DHCS) to measure results of services provided under the partnership agreement.
 - g) A plan to establish a partnership described in this section in at least one school within the local educational agency in the first year and to expand the partnership to three additional schools within three years.
- 3) Defines "local education agency" for purposes of this section as having the same meaning as Section 56026.3 of the Education Code.
 - 4) Expresses the intent of the Legislature that a health care service plan or a health insurer be authorized to participate in the partnerships established to the extent mutually agreed to by a school district and a plan or insurer.
 - 5) Creates the *County and Local Education Agency Partnership Fund* in the State Treasury and specifies that any available monies in the fund through an appropriation by the Legislature, be made available to the California Department of Education (CDE) for the purpose of funding the partnerships through a competitive grant program, beginning in 2019-20 and every year thereafter.
 - 6) Prohibits funds made available in the annual Budget Act for the purpose of providing educationally related mental health services for emotionally disturbed pupils, required by an IEP from being deposited into the *County and Local Education Agency Partnership Fund*.
 - 7) Specifies that nothing in this section requires the use of Proposition 98 funds for the partnerships established.
 - 8) Expresses findings and declarations as follows:
 - a) Schools are the best place for early identification and alleviation of behavioral health challenges that are likely to lead to serious mental illness or substance use disorders if not addressed early in their onset.
 - b) Multi-tiered models to improve school climate and culture and to ensure prompt referral for support for students showing any level of challenge and comprehensive integrated services for those with serious emotional disturbances or substance use disorders have been demonstrated to have the best outcomes in improving student health and academic performance.
 - c) These integrated models, when able to leverage public or private health insurance funds, demonstrate that early investments pay for themselves in reduced special education costs and improved academic success with reducing school dropout rates and related problems.
 - d) Approximately 85 percent of triage grant funds are allocated to adult mental health services, leaving youth underserved. According to the Mental Health Services Oversight

and Accountability Commission (MHSOAC), in the first round of triage grants, only 6 of 50 applications for program funds received were specific to youth, and only three of those met or exceeded the minimum threshold for funding.

- e) Grantees with youth-centric programs received just over 15 percent of the total available triage funds. In order for California's school-age population to be adequately served, parity in the distribution of triage grant funds is necessary.
- f) By allocating funds for the purpose of establishing partnerships between schools and local mental health plans, the entities involved would be able to leverage school and community resources in order to provide comprehensive multi-tiered interventions on a sustainable basis, which yields greater mental health outcomes for California's youth.

EXISTING LAW:

- 1) Federal law establishes the Individuals with Disabilities Education Act (IDEA) and related regulations, which requires that students with disabilities have access to a free and appropriate public education based on their individual needs, and establishes procedures for implementing these requirements.
- 2) State law defines "related services" to mean services, including psychological services other than assessment and development of the IEP, and counseling services, designed to enable an individual with exceptional needs to receive a free appropriate public education as described in the IEP of the child, and to benefit from special education.
- 3) State law, by removing the responsibility for providing mental health services for students with disabilities from counties, establishes that LEAs are responsible for providing these services.
- 4) Establishes the Medi-Cal program, administered by DHCS, under which qualified low-income persons receive health care benefits.
- 5) Establishes the Mental Health Wellness Act (MHWA), which requires funds appropriated by the Legislature to be made available to specified entities to be used, among other things, for a complete continuum of crisis services for children and youth 21 years of age and under regardless of where they live in the state. States the objectives of the MHWA as expanding access to early intervention and treatment; expanding continuum of services to address such things as crisis stabilization, intervention, and residential treatment; adding at least 600 triage personnel; and providing local communities with increased financial resources to leverage additional public and private funds to improve networks for those with mental health disorders.
- 6) Establishes the Mental Health Services Oversight and Accountability Commission (MHSOAC) to oversee the implementation of the Mental Health Services Act (MHSA), enacted by voters in 2004 as Proposition 63, which provides funds to counties to expand services, and develop innovative programs and integrated service plans, for mentally ill children, adults, and seniors through a 1% income tax on personal income above \$1 million.

- 7) Requires the Commission to allocate grant funds from the MHWFA for triage personnel, using specified criteria, to provide intensive case management and linkage to services, as specified, for individuals with mental health disorders at various access points, including schools.
- 8) Establishes the EPSDT program for eligible people under 21 years of age to provide periodic screenings to determine health care needs, and based upon the identified health care need and diagnosis, treatment services are provided. Requires EPSDT services to be administered through local county mental health plans under contract with the DHCS.
- 9) Establishes the School-based Early Mental Health Intervention and Prevention Services for Children Act (EMHI) to award matching grants to LEAs to pay the state share of the costs of providing school-based early mental health intervention and prevention services to eligible students, subject to the availability of funding each year.
- 10) Establishes the Primary Intervention Program, using EMHI funds, to provide school-based early detection and prevention of emotional, behavioral, and learning problems in students in kindergarten and grades one through three, with services provided by child aides under the supervision of a school-based mental health professional.
- 11) Requires DHCS, in collaboration with the California Health and Human Services Agency (CHHS), and in consultation with the MHSOAC, to create a plan for a performance outcome system for EPSDT mental health services provided to eligible Medi-Cal beneficiaries under the age of 21.

FISCAL EFFECT: Unknown based upon the current version of the bill.

COMMENTS: *This bill* directs at least 50 percent of the *Investment in Mental Health Wellness Act of 2013* triage funds, currently managed by the MHSOAC, to the *County and Local Education Agency Partnership Fund*, to be administered by the CDE to incentivize and fund LEA and county mental health agency partnerships authorized by this bill to provide mental health services to pupils on school campuses.

Need for the bill. According to the author:

“The Mental Health Services Accountability and Oversight Commission (MHSOAC) found that children are more likely to experience or express a mental health crisis in a school setting and thus school-based programs can effectively respond and support the shared goals of promoting mental health and achieving desired educational outcomes for youth with mental health needs.

Partnerships between schools and community mental/behavioral health professionals offer students and families an extended network of mental health programs and services that are easily accessible. When programs are able to identify and address student mental and behavioral challenges early, students are more likely to gain resiliency skills and be successful in school and life while the threat of later harm is reduced. Although youth mental health outreach has demonstrable benefits to children, only a handful of California schools have partnered with county mental health agencies and existing Triage funds are primarily utilized for adult mental health services.

According to the MHSOAC, in the first round of the Triage grants, 50 applications for program funds were received. Only 6 of these proposed programs were specific to youth, and only 3 of those met or exceeded the minimum threshold for funding. Therefore, the grantees with youth-centric programs received just over 15% of the total available triage funds. In order for California's school-age population to be adequately served, parity in the triage grant fund allocation is a necessary first step."

Need for mental health services. Research suggests 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. Up to 20% of children in the United States experience a mental, emotional, or behavioral health disorder every year. 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. One study found that 71% of California children identified with mental health needs through a statewide survey 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.

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 provided in schools may include academic 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 provide 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.

Recent state audit on student mental health services. AB 114 (Chapter 43, Statutes of 2011) transferred the responsibility for providing mental health services for students with individualized education plans (IEPs) from county mental health departments to LEAs. In January, 2016, the Bureau of State Audits released a report on the effect of AB 114 on mental health services for students. Among other recommendations, the audit recommended that the Legislature require counties to enter into agreements with Special Education Local Plan Areas (SELPA) to allow SELPA and LEAs to access Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) funding.

EPSDT is a Medi-Cal benefit for people under the age of 21 who have "full-scope" Medi-Cal eligibility. The EPSDT program provides eligible children access to a range of mental health services that include, among other things, mental health assessment, mental health services, therapy, rehabilitation, therapeutic behavioral services, crisis intervention/stabilization, day rehabilitation/day treatment, medication support and case management. EPSDT services are administered through county mental health plans under contract with the Department of Health Care Services (DHCS). LEAs may provide and bill for EPSDT mental health services only through a contract with the county mental health plan. EPSDT federal funds must be matched by county funds.

The audit noted that although LEAs cannot access funding for EPSDT services unless they contract with their respective counties, such collaborations could financially benefit both counties and LEAs and increase the provision of services to children. The audit cited the case of Desert Mountain SELPA, which contracts with San Bernardino County to provide mental health services to Medi-Cal eligible students using EPSDT funds. Under this arrangement, Desert Mountain SELPA contributes to the county's required match of federal funds. According to the Auditor, this arrangement is mutually beneficial: San Bernardino County does not need to provide the full match, and Desert Mountain is able to access EPSDT funding to provide mental health services to Medi-Cal eligible students with and without IEPs. The audit noted that "if California's other SELPAs established agreements with their county mental health plans, these entities in total could potentially receive millions of dollars in federal reimbursements for mental health services provided to Medi-Cal eligible children."

Additional funding for mental health services. According to the MHSOAC, "SB 82, (Committee on Budget and Fiscal Review), Chapter 34, statutes of 2013 enacted the Investment in Mental Health Wellness Act. Through a competitive grant process, the Act afforded California the opportunity to use Mental Health Services Act (MHSA) funds to expand crisis services for individuals who were experiencing a mental health crisis. In February 2014, the Commission funded and administered contracts to implement Triage Grant services for 24 counties. These counties received a total of \$32 million per year over the course of the grants. Among these 24 counties, only three counties utilized the funds for crisis services specific to the needs of children and youth.

Children's advocates expressed concern that the perception among providers and counties was that Triage funds were specifically authorized to serve adults, even though the authorizing legislation is silent on that issue. As a result of those concerns and the underrepresentation of children and youth in the first round of triage grant programs, the Legislature modified the authorizing statute to clarify that triage funds can be used to provide services that are specific to serving children and youth in schools and other settings. Senate Bill 833 (Committee on Budget and Fiscal Review), Chapter 414, statutes of 2016 amended the Investment in Mental Health Wellness Act to specifically authorize the triage grants to provide a complete continuum of crisis intervention services and supports for children aged 21 and under and their families and caregivers.

Current efforts to fund county-school partnerships. In July 2017, the Commission dedicated 50 percent of SB 82 Triage funds to children and youth, aged 21 years and under. With the recognition that the effects of mental health crises are evident on school campuses, and the need for a coordinated community response, in November 2017 the Commission directed \$30 million to strengthen school-county partnerships to provide crisis intervention services for children in grades pre-kindergarten through twelve, with an emphasis on children in grades pre-kindergarten through third. The program is administered by the MHSOAC."

The MHSOAC issued a Request for Proposals in 2018 to allocate \$30 million of the SB 82 funds for triage grants for a number of purposes, including school-county collaboratives. These four-year grants are intended to hire personnel to enhance existing county partnerships with school-based programs and to expand access on school campuses to a continuum of services and supports for children and their families. It is the intent of the Commission that the use of these funds will create a roadmap for counties and schools across the state to successfully move into an integrated school-based crisis prevention and early intervention model, which includes the

county mental health department, schools, parents/caregivers, community organizations, and/or private industry. An intent to award funds \$30 million was published on April 26, 2018 to the following agencies:

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| • Tulare County Office of Education | \$7,500,000 |
| • California Association of Health and Education Linked | |
| • Professions Joint Powers Authority | \$7,500,000 |
| • Placer County | \$7,500,000 |
| • Humboldt County | \$7,500,000 |

According to the MHSOAC, overall available funding for the triage grants has been reduced, so the Commission may reconsider the number or grant amounts of these allocations at an upcoming meeting. The RFP for these grants specifies reporting requirements for grantees as well as the intent of the Commission to conduct a statewide evaluation of the program.

This bill would direct 50 percent of this annual appropriation to the fund established by this bill, which would be administered by CDE to support mental health services for children and youth. As noted above, the MHSOAC, at its July 2017, meeting took this action administratively to set aside 50 percent of these funds for services for children and youth. This bill would codify that action.

This bill authorizes, but does not require LEAs and counties to form partnerships to provide mental health services to pupils on school sites, and would allow such partnerships to draw down federal EPSDT funds as well as to apply for funding through the 50 percent of MWA triage funds to be administered by the CDE for the 2018-19 year, and 50 percent of any funds appropriated for this purpose in subsequent years. As noted previously, nothing in current law prevents schools and counties from entering into partnerships to provide mental health services to pupils on school sites, and such partnerships are operating successfully in some areas. The actions by MHSOAC to fund additional sites through the triage grant funds will further expand this effort and provide valuable data to scale up such partnerships on a statewide level.

This bill would create a new program that differs from the process already in place at the MHSOAC and specifies that any partnerships entered into voluntarily between counties, or a qualified provider operating as a part of a county mental health plan network, and a local education agency includes a number of specified elements, including all of the elements outlined below.

- 1) The partnership uses available governmental funds to provide mental health services, including EPSDT services, to pupils who are eligible for Medi-Cal services, to pupils who are enrolled in special education and have an Individualized Education Plan (IEP) which requires mental health services, and to other pupils.
- 2) An agreement between the county, or the designated county mental health provider to allow qualified professionals to provide on-campus support to pupils with an IEP and pupils not in special education who a teacher believes may require those services, and with parental consent, provide services to those pupils.
- 3) The LEA, with the permission of the pupil's parent, provides the county mental health provider with the information of the health insurance carrier for each pupil.

- 4) An agreement between the parties on how to cover the costs of mental health provider services not covered by funds authorized pursuant to this bill.
- 5) The partnership agreement fulfills the reporting and other requirements under Individuals with Disabilities Education Act (IDEA), and Medi-Cal EPSDT provisions, and measures the effect of the mental health services and how those services meet the pupil's needs as specified in their IEP or other plan.
- 6) The county and LEA partnership participate in the performance outcome system established by the State Department of Health Care Services to measure results of services provided under the partnership agreement.
- 7) A plan to establish a partnership in at least one school within the LEA in the first year and to expand the partnership to three additional schools within three years.

Committee staff recommend the following amendments:

- 1) Remove reference to the creation of the County and Local Education Agency Partnership Fund and the requirements to direct moneys from the fund to the California Department of Education. The author verbally made a commitment to take this amendment in the Assembly Health Committee hearing on June 19, 2018.
- 2) Delete Section 3 of the bill.
- 3) Require the MHSOAC to consult with the Superintendent of Public Instruction (SPI) in establishing criteria for allocating one-half of the funds to LEA/mental health partnerships through a competitive process.
- 4) Specify that eligible partnerships are those that include one or more LEAs and one or more mental health partner, which shall include a county, or a qualified mental health provider operating as part of the county mental health plan network.
- 5) Specify that the allowable uses of the funding be broadened to support prevention, early intervention, and direct services, including, but not limited to, support for personnel, training, and other strategies that respond to the mental health needs of children and youth. Specifies that strategies may include, but are not limited to:
 - a) Communication, coordination, and referral.
 - b) Monitoring service delivery.
 - c) Monitoring the individual's progress.
 - d) Providing placement service assistance and service plan development.
- 6) Specify that the MHSOAC, in consultation with the SPI, will take the following factors into consideration in determining grant recipients:

- a) Need for mental health services for pupils, including potential gaps in local service connections.
 - b) Intended use of grant funds to facilitate linkage and access to services, including objectives and anticipated outcomes.
 - c) Ability to obtain federal Medicaid or other reimbursement or to leverage other funds.
 - d) Ability to administer an effective program and the degree of support and collaboration between the LEA(s) and the mental health partner(s).
 - e) Geographic distribution throughout the state.
- 7) Specify that funds awarded by the MHSOAC may only be used to supplement, not supplant, existing funding sources.
 - 8) Clarify the definition of LEA.
 - 9) Authorize MHSOAC to implement this section via informational letters, bulletins, or similar instructions.
 - 10) Specify that nothing in this section shall require the use of Proposition 98 funds.
 - 11) Require the commission to provide a status report to the Legislature by March 1, 2020.
 - 12) Other technical and clarifying amendments.

Similar and prior legislation. AB 2022 (Chu) of this Session requires the CDE to report to the Legislature on the provision of mental health care to students. This bill is pending in Senate Education.

SB 191 (Beall) of this Session authorizes LEAs to enter into partnerships with county mental health providers to create programs for the provision of mental health and substance use supports, assessments and services. This bill was held in Senate Appropriations.

SB 884 (Beall) Chapter 835, Statutes of 2016 requires LEAs and SELPAs to collect and report specific information relative to mental health services, requires the CDE to monitor and compare specific information relative to mental health services, and requires LEAs to provide specified informational materials to parents.

SB 1113 (Beall) of the 2015-16 Session authorizes LEAs to enter into partnerships with county mental health plans for the provision of EPSDT mental health services. This bill was vetoed by the Governor. The Governor's veto message in part read: "Given the precarious balance of the state budget, establishing new programs with the expectation of funding in the future is counterproductive to the Administration's efforts to sustain a balanced budget and to fully fund the Local Control Funding Formula. Additional spending to support new programs must be considered in the annual budget process."

AB 1644 (Bonta) of the 2015-16 Session required the Department of Public Health (DPH) to establish a four-year program to support local decisions to provide funding for early mental health support services, requires DPH to provide technical assistance to LEAs, and requires DPH to select and support schoolsites to participate in the program. AB 1644 was held in the Senate Appropriations Committee.

AB 1133 (Achadjian) of the 2015-16 Session establishes a four-year pilot program, the School-Based Early Mental Health Intervention and Prevention Services Support Program (EMHI Support Program), to provide outreach, free regional training, and technical assistance for local educational agencies in providing mental health services at school sites. This bill was held in the Assembly Appropriations Committee.

AB 1025 (Thurmond) of the 2015-16 Session required the CDE to establish a three-year pilot program in school districts to encourage inclusive practices that integrate mental health, special education, and school climate interventions following a multi-tiered framework. This bill was held in the Senate Appropriations Committee.

AB 1018 (Cooper, 2015) required the Department of Health Care Services and SDE to convene a joint taskforce to examine the delivery of mental health services to children. AB 1018 was held in the Senate Appropriations Committee.

SB 82 (Budget and Fiscal Review Committee) Chapter 34, Statutes of 2013 establishes the *Investment in Mental Health Wellness Act of 2013* and authorizes the California Health Facilities Financing Authority (CHFFA) to increase capacity of counties, or other non-profit agencies, in providing mobile crisis support, crisis intervention, crisis stabilization, and crisis residential treatment services. Also authorizes the Mental Health Services Oversight and Accountability Commission (MHSOAC) to allocate funding for the deployment of triage personnel to assist individuals in gaining access to needed services, including medical, mental health, substance use disorder assistance, and other community services.

REGISTERED SUPPORT / OPPOSITION:

Support

Mental Health Services Oversight and Accountability Commission (Sponsor)
California Teachers Association
Campbell Union School District
Disability Rights California
East Side Union High School District
Los Angeles Trust for Children's Health
NextGen California
State Superintendent of Public Instruction Tom Torlakson
Teachers for Healthy Kids
Western Center on Law and Poverty
Two individuals

Opposition

Alum Rock Counseling Center

California Council of Community Behavioral Health Agencies
Lincoln
Seneca Family of Agencies
Victor Agencies

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