

AMENDED IN SENATE APRIL 16, 2012

SENATE BILL

No. 1136

Introduced by Senator Steinberg

February 21, 2012

An act to amend Sections ~~21, 4030, 4031, 4032, 4033, 4040, 4050, 4051, 4052, 4060, 4061, 4090, 4091, 4094, 5370.2, 5510, 5513, 5514, 5530, 5585.22, 5601, 5602, 5604, 5610, 5652.7, 5653, 5653.1, 5654, 5655, 5664, 5664.5, 5692, 5701, 5701.1, 5707, 5715, 5717, 5751, 5751.1, 5751.2, 5770, 5770.5, 5771, 5771.3, 5772, 5815, 5840, 5845, 5851.5, 5852.5, 5854, 5855, 5855.5, 5868, 5869, 5878, 5878.3, 5880, 5890, 11325.7, 11462.01, and 18986.40~~ 5820, 5821, 5822, 5830, 5840, 5845, 5846, 5847, 5848, 5878.1, 5878.3, 5890, 5891, 5892, 5897, and 5898 of, and to add ~~Section~~ *Sections* 4024.7 and 5899 to, the Welfare and Institutions Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1136, as amended, Steinberg. Health: mental health: ~~health equity.~~
Mental Health Services Act.

Under existing law, the State Department of Mental Health is authorized and required to perform various functions relating to the care and treatment of persons with mental disorders.

Existing law, the Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the *continuously appropriated* Mental Health Services Fund to fund various county mental health programs. *Existing law establishes the Mental Health Services Oversight and Accountability Commission (commission) to oversee the administration of various parts of the Mental Health Services Act.* The act provides that it may be amended by the Legislature by a $\frac{2}{3}$ vote of

each house as long as the amendment is consistent with and furthers the intent of the act, and that the Legislature may also clarify procedures and terms of the act by majority vote.

This bill would require the commission to assist in providing technical assistance, as specified, and would require the commission to work in collaboration with, and in consultation with, various entities in designing a comprehensive joint plan for coordinated evaluation of client outcomes. This bill would require the California Health and Human Services Agency to lead the comprehensive joint plan effort. This bill would transfer various functions of the State Department of Mental Health under the Mental Health Services Act to the State Department of Health Care Services and the Office of Statewide Health Planning and Development. This bill would make various technical and conforming changes to reflect the transfer of state those mental health responsibilities. This bill would require all projects included in the innovative programs portion of the county plan to meet specified requirements.

Existing law requires each county mental health program to prepare and submit a 3-year plan that includes specified components.

This bill, in this regard, would require the plan to be a 3-year program and expenditure plan adopted by the county board of supervisors and submitted to the commission, would require annual updates, and would require plans to be certified by the county mental health director and the county auditor controller, as specified. This bill would require the State Department of Health Care Services to inform the California Mental Health Directors Association and the commission of the methodology used for revenue allocation to the counties. This bill would require the State Department of Health Care Services, in consultation with the commission and the California Welfare Directors Association, to develop and administer instructions for the Annual Mental Health Services Act Revenue and Expenditure Report, as prescribed.

~~This bill would authorize~~ require the Governor or the Director of Health Care Services to appoint, subject to confirmation by the Senate, a Deputy Director of Mental Health and Substance Use Disorder Services of the State Department of Health Care Services.

~~This bill also would state the intent of the Legislature to create an Office of Health Equity to comprehensively address issues of health disparity, promote healthy communities, and improve individual health outcomes.~~

Existing law requires the State Department of Mental Health to adopt as part of its overall mission the development of community-based, comprehensive, interagency systems of care that target seriously emotionally and behaviorally disturbed children, as specified.

~~This bill would instead authorize, rather than require, these provisions to be implemented.~~

This bill would declare that it clarifies procedures and terms of the Mental Health Services Act.

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 4024.7 is added to the Welfare and
2 Institutions Code, to read:

3 4024.7. The Governor or the Director of Health Care Services
4 shall appoint, subject to confirmation by the Senate, a Deputy
5 Director of Mental Health and Substance Use Disorder Services
6 of the State Department of Health Care Services. The salary for
7 the deputy director shall be fixed in accordance with law.

8 SEC. 2. Section 5820 of the Welfare and Institutions Code is
9 amended to read:

10 5820. (a) It is the intent of this part to establish a program with
11 dedicated funding to remedy the shortage of qualified individuals
12 to provide services to address severe mental illnesses.

13 (b) Each county mental health program shall submit to the
14 ~~department~~ Office of Statewide Health Planning and Development
15 a needs assessment identifying its shortages in each professional
16 and other occupational category in order to increase the supply of
17 professional staff and other staff that county mental health
18 programs anticipate they will require in order to provide the
19 increase in services projected to serve additional individuals and
20 families pursuant to Part 3 (commencing with Section 5800), Part
21 3.2 (commencing with Section 5830), Part 3.6 (commencing with
22 Section 5840), and Part 4 (commencing with Section 5850) of this
23 division. For purposes of this part, employment in California's
24 public mental health system includes employment in private
25 organizations providing publicly funded mental health services.

26 (c) ~~The department~~ Office of Statewide Health Planning and
27 Development, in coordination with the California Mental Health

1 *Planning Council*, shall identify the total statewide needs for each
2 professional and other occupational category *utilizing county needs*
3 *assessment information* and develop a five-year education and
4 training development plan.

5 (d) Development of the first five-year plan shall commence
6 upon enactment of the initiative. Subsequent plans shall be adopted
7 every five years, *with the next five-year plan due as of April 1,*
8 *2014.*

9 (e) Each five-year plan shall be reviewed and approved by the
10 California Mental Health Planning Council.

11 *SEC. 3. Section 5821 of the Welfare and Institutions Code is*
12 *amended to read:*

13 5821. (a) The California Mental Health Planning Council shall
14 advise the ~~State Department of Mental Health~~ *Office of Statewide*
15 *Health Planning and Development* on education and training policy
16 development and provide oversight for the ~~department's~~ education
17 and training plan development.

18 (b) The ~~State Department of Mental Health~~ *Office of Statewide*
19 *Health Planning and Development* shall work with the California
20 Mental Health Planning Council so that council staff is increased
21 appropriately to fulfill its duties required by Sections 5820 and
22 5821.

23 *SEC. 4. Section 5822 of the Welfare and Institutions Code is*
24 *amended to read:*

25 5822. The ~~State Department of Mental Health~~ *Office of*
26 *Statewide Health Planning and Development* shall include in the
27 five-year plan:

28 (a) Expansion plans for the capacity of postsecondary education
29 to meet the needs of identified mental health occupational
30 shortages.

31 (b) Expansion plans for the forgiveness and scholarship
32 programs offered in return for a commitment to employment in
33 California's public mental health system and make loan forgiveness
34 programs available to current employees of the mental health
35 system who want to obtain Associate of Arts, Bachelor of Arts,
36 master's degrees, or doctoral degrees.

37 (c) Creation of a stipend program modeled after the federal Title
38 IV-E program for persons enrolled in academic institutions who
39 want to be employed in the mental health system.

1 (d) Establishment of regional partnerships ~~among~~ *between* the
2 mental health system and the educational system to expand
3 outreach to multicultural communities, increase the diversity of
4 the mental health workforce, to reduce the stigma associated with
5 mental illness, and to promote the use of web-based technologies,
6 and distance learning techniques.

7 (e) Strategies to recruit high school students for mental health
8 occupations, increasing the prevalence of mental health occupations
9 in high school career development programs such as health science
10 academies, adult schools, and regional occupation centers and
11 programs, and increasing the number of human service academies.

12 (f) Curriculum to train and retrain staff to provide services in
13 accordance with the provisions and principles of Part 3
14 (commencing with Section 5800), Part 3.2 (commencing with
15 Section 5830), Part 3.6 (commencing with Section 5840), and Part
16 4 (commencing with Section 5850) of this division.

17 (g) Promotion of the employment of mental health consumers
18 and family members in the mental health system.

19 (h) Promotion of the meaningful inclusion of mental health
20 consumers and family members and incorporating their viewpoint
21 and experiences in the training and education programs in
22 subdivisions (a) through (f).

23 (i) Promotion of the inclusion of cultural competency in the
24 training and education programs in subdivisions (a) through (f).

25 *SEC. 5. Section 5830 of the Welfare and Institutions Code is*
26 *amended to read:*

27 5830. County mental health programs shall develop plans for
28 innovative programs to be funded pursuant to paragraph (6) of
29 subdivision (a) of Section 5892.

30 (a) The innovative programs shall have the following purposes:

31 (1) To increase access to underserved groups.
32 (2) To increase the quality of services, including better
33 outcomes.

34 (3) To promote interagency collaboration.

35 (4) To increase access to services.

36 (b) *All projects included in the innovative program portion of*
37 *the county plan shall meet the following requirements:*

38 (1) *Address one of the following purposes as its primary*
39 *purpose:*

40 (A) *Increase access to underserved groups.*

1 (B) Increase the quality of services, including measurable
 2 outcomes.
 3 (C) Promote interagency and community collaboration.
 4 (D) Increase access to services.
 5 (2) Support innovative approaches by doing one of the
 6 following:
 7 (A) Introducing new mental health practices or approaches,
 8 including, but not limited to, prevention and early intervention.
 9 (B) Making a change to an existing mental health practice or
 10 approach, including, but not limited to, adaptation for a new setting
 11 or community.
 12 (C) Introducing a new application to the mental health system
 13 of a promising community-driven practice or an approach that
 14 has been successful in nonmental health contexts or settings.
 15 (c) An innovative project may affect virtually any aspect of
 16 mental health practices or assess a new or changed application
 17 of a promising approach to solving persistent, seemingly
 18 intractable mental health challenges, including, but not limited
 19 to, any of the following:
 20 (1) Administrative, governance, and organizational practices,
 21 processes, or procedures.
 22 (2) Advocacy.
 23 (3) Education and training for service providers, including
 24 nontraditional mental health practitioners.
 25 (4) Outreach, capacity building, and community development.
 26 (5) System development.
 27 (6) Public education efforts.
 28 (7) Research.
 29 (8) Services and interventions, including prevention, early
 30 intervention, and treatment.
 31 (d) If an innovative project has proven to be successful and a
 32 county chooses to continue it, the project work plan shall transition
 33 to another category of funding as appropriate.
 34 ~~(b)~~
 35 (e) County mental health programs shall ~~receive~~ expend funds
 36 for their innovation programs upon approval by the Mental Health
 37 Services Oversight and Accountability Commission.
 38 SEC. 6. Section 5840 of the Welfare and Institutions Code is
 39 amended to read:

1 5840. (a) The State Department of ~~Mental Health Care~~
2 *Services, in coordination with counties*, shall establish a program
3 designed to prevent mental illnesses from becoming severe and
4 disabling. The program shall emphasize improving timely access
5 to services for underserved populations.

6 (b) The program shall include the following components:

7 (1) Outreach to families, employers, primary care health care
8 providers, and others to recognize the early signs of potentially
9 severe and disabling mental illnesses.

10 (2) Access and linkage to medically necessary care provided
11 by county mental health programs for children with severe mental
12 illness, as defined in Section 5600.3, and for adults and seniors
13 with severe mental illness, as defined in Section 5600.3, as early
14 in the onset of these conditions as practicable.

15 (3) Reduction in stigma associated with either being diagnosed
16 with a mental illness or seeking mental health services.

17 (4) Reduction in discrimination against people with mental
18 illness.

19 (c) The program shall include mental health services similar to
20 those provided under other programs effective in preventing mental
21 illnesses from becoming severe, and shall also include components
22 similar to programs that have been successful in reducing the
23 duration of untreated severe mental illnesses and assisting people
24 in quickly regaining productive lives.

25 (d) The program shall emphasize strategies to reduce the
26 following negative outcomes that may result from untreated mental
27 illness:

28 (1) Suicide.

29 (2) Incarcerations.

30 (3) School failure or dropout.

31 (4) Unemployment.

32 (5) Prolonged suffering.

33 (6) Homelessness.

34 (7) Removal of children from their homes.

35 (e) *Prevention and early intervention funds may be used to*
36 *broaden the provision of community-based mental health services*
37 *by adding prevention and early intervention services or activities*
38 *to these services.*

39 (e)

1 (f) In consultation with mental health stakeholders, and
2 consistent with guidelines from the Mental Health Services
3 Oversight and Accountability Commission, pursuant to Section
4 5846, the department shall revise the program elements in Section
5 5840 applicable to all county mental health programs in future
6 years to reflect what is learned about the most effective prevention
7 and intervention programs for children, adults, and seniors.

8 *SEC. 7. Section 5845 of the Welfare and Institutions Code is*
9 *amended to read:*

10 5845. (a) The Mental Health Services Oversight and
11 Accountability Commission is hereby established to oversee Part
12 3 (commencing with Section 5800), the Adult and Older Adult
13 Mental Health System of Care Act; Part 3.1 (commencing with
14 Section 5820), Human Resources, Education, and Training
15 Programs; Part 3.2 (commencing with Section 5830), Innovative
16 Programs; Part 3.6 (commencing with Section 5840), Prevention
17 and Early Intervention Programs; and Part 4 (commencing with
18 Section 5850), the Children's Mental Health Services Act. The
19 commission shall replace the advisory committee established
20 pursuant to Section 5814. The commission shall consist of 16
21 voting members as follows:

22 (1) The Attorney General or his or her designee.

23 (2) The Superintendent of Public Instruction or his or her
24 designee.

25 (3) The Chairperson of the Senate Health and Human Services
26 Committee or another member of the Senate selected by the
27 President pro Tempore of the Senate.

28 (4) The Chairperson of the Assembly Health Committee or
29 another member of the Assembly selected by the Speaker of the
30 Assembly.

31 (5) Two persons with a severe mental illness, a family member
32 of an adult or senior with a severe mental illness, a family member
33 of a child who has or has had a severe mental illness, a physician
34 specializing in alcohol and drug treatment, a mental health
35 professional, a county sheriff, a superintendent of a school district,
36 a representative of a labor organization, a representative of an
37 employer with less than 500 employees and a representative of an
38 employer with more than 500 employees, and a representative of
39 a health care services plan or insurer, all appointed by the
40 Governor. In making appointments, the Governor shall seek

1 individuals who have had personal or family experience with
2 mental illness.

3 (b) Members shall serve without compensation, but shall be
4 reimbursed for all actual and necessary expenses incurred in the
5 performance of their duties.

6 (c) The term of each member shall be three years, to be
7 staggered so that approximately one-third of the appointments
8 expire in each year.

9 (d) In carrying out its duties and responsibilities, the commission
10 may do all of the following:

11 (1) Meet at least once each quarter at any time and location
12 convenient to the public as it may deem appropriate. All meetings
13 of the commission shall be open to the public.

14 (2) Within the limit of funds allocated for these purposes,
15 pursuant to the laws and regulations governing state civil service,
16 employ staff, including any clerical, legal, and technical assistance
17 as may appear necessary. The commission shall administer its
18 operations separate and apart from the State Department of ~~Mental~~
19 *Health Care Services*.

20 (3) Establish technical advisory committees such as a committee
21 of consumers and family members.

22 (4) Employ all other appropriate strategies necessary or
23 convenient to enable it to fully and adequately perform its duties
24 and exercise the powers expressly granted, notwithstanding any
25 authority expressly granted to any officer or employee of state
26 government.

27 (5) Enter into contracts.

28 (6) Obtain data and information from the State Department of
29 *Mental Health Care Services, the Office of Statewide Health*
30 *Planning and Development*, or other state or local entities that
31 receive Mental Health Services Act funds, for the commission to
32 utilize in its oversight, review, *training and technical assistance,*
33 *accountability,* and evaluation capacity regarding projects and
34 programs supported with Mental Health Services Act funds.

35 (7) Participate in the joint state-county decisionmaking process,
36 as contained in Section 4061, for training, technical assistance,
37 and regulatory resources to meet the mission and goals of the
38 state's mental health system.

39 (8) Develop strategies to overcome stigma *and discrimination,*
40 and accomplish all other objectives of Part 3.2 (commencing with

1 Section 5830), 3.6 (commencing with Section 5840), and the other
2 provisions of the act establishing this commission.

3 (9) At any time, advise the Governor or the Legislature regarding
4 actions the state may take to improve care and services for people
5 with mental illness.

6 (10) If the commission identifies a critical issue related to the
7 performance of a county mental health program, it may refer the
8 issue to the State Department of ~~Mental Health Care Services~~
9 pursuant to Section 5655.

10 (11) *Assist in providing technical assistance to accomplish the*
11 *purposes of the Mental Health Services Act, Part 3 (commencing*
12 *with Section 5800), and Part 4 (commencing with Section 5850)*
13 *in collaboration with the State Department of Health Care Services*
14 *and in consultation with the California Mental Health Directors*
15 *Association.*

16 (12) *Work in collaboration with the State Department of Health*
17 *Care Services and the California Mental Health Planning Council,*
18 *and in consultation with the California Mental Health Directors*
19 *Association, in designing a comprehensive joint plan for a*
20 *coordinated evaluation of client outcomes in the community-based*
21 *mental health system, including, but not limited to, parts listed in*
22 *subdivision (a). The California Health and Human Services Agency*
23 *shall lead this comprehensive joint plan effort.*

24 *SEC. 8. Section 5846 of the Welfare and Institutions Code is*
25 *amended to read:*

26 5846. (a) The commission shall issue guidelines for
27 expenditures pursuant to Part 3.2 (commencing with Section 5830),
28 for innovative programs, and Part 3.6 (commencing with Section
29 5840), for prevention and early intervention, no later than 180 days
30 before the fiscal year for which the funds will apply.

31 (b) The commission may provide technical assistance to any
32 county mental health plan as needed to address concerns or
33 recommendations of the commission or when local programs could
34 benefit from technical assistance for improvement of their plans.

35 (c) The commission shall ensure that the perspective and
36 participation of members and others suffering from, *or at risk for,*
37 severe mental illness and their family members is a significant
38 factor in all of its decisions and recommendations.

39 *SEC. 9. Section 5847 of the Welfare and Institutions Code is*
40 *amended to read:*

1 5847. Integrated Plans for Prevention, Innovation, and System
2 of Care Services.

3 ~~(a) It is the intent of the Legislature to streamline the approval~~
4 ~~processes of the State Department of Mental Health and the Mental~~
5 ~~Health Services Oversight and Accountability Commission of~~
6 ~~programs developed pursuant to Sections 5891 and 5892.~~

7 ~~(b)~~

8 (a) Each county mental health program shall prepare and submit
9 a three-year *program and expenditure plan, and annual updates,*
10 *adopted by the county board of supervisors, to the Mental Health*
11 *Services Oversight and Accountability Commission within 30 days*
12 *after adoption.* ~~The~~

13 (b) *The three-year program and expenditure plan shall be based*
14 *on available unspent funds and estimated revenue allocations*
15 *provided by the state and in accordance with established*
16 *stakeholder engagement and planning requirements as required*
17 *in Section 5848. The three-year program and expenditure plan*
18 *and annual updates shall include all of the following:*

19 (1) A program for prevention and early intervention in
20 accordance with Part 3.6 (commencing with Section 5840).

21 (2) A program for services to children in accordance with Part
22 4 (commencing with Section 5850), to include a program pursuant
23 to Chapter 4 (commencing with Section 18250) of Part 6 of
24 Division 9 or provide substantial evidence that it is not feasible to
25 establish a wraparound program in that county.

26 (3) A program for services to adults and seniors in accordance
27 with Part 3 (commencing with Section 5800).

28 (4) A program for innovations in accordance with Part 3.2
29 (commencing with Section 5830).

30 (5) A program for technological needs and capital facilities
31 needed to provide services pursuant to Part 3 (commencing with
32 Section 5800), Part 3.6 (commencing with Section 5840), and Part
33 4 (commencing with Section 5850). All plans for proposed facilities
34 with restrictive settings shall demonstrate that the needs of the
35 people to be served cannot be met in a less restrictive or more
36 integrated setting.

37 (6) Identification of shortages in personnel to provide services
38 pursuant to the above programs and the additional assistance
39 needed from the education and training programs established
40 pursuant to Part 3.1 (commencing with Section 5820).

1 (7) Establishment and maintenance of a prudent reserve to
2 ensure the county program will continue to be able to serve
3 children, adults, and seniors that it is currently serving pursuant
4 to Part 3 (commencing with Section 5800), the Adult and Older
5 Adult Mental Health System of Care Act, Part 3.6 (commencing
6 with Section 5840), Prevention and Early Intervention Programs,
7 and Part 4 (commencing with Section 5850), the Children’s Mental
8 Health Services Act, during years in which revenues for the Mental
9 Health Services Fund are below recent averages adjusted by
10 changes in the state population and the California Consumer Price
11 Index.

12 (8) *Certification by the county mental health director, which*
13 *ensures that the county has complied with all pertinent regulations,*
14 *laws, and statutes of the Mental Health Services Act, including*
15 *stakeholder participation and nonsupplantation requirements.*

16 (9) *Certification by the county mental health director and by*
17 *the county auditor controller that the county has complied with*
18 *any fiscal accountability requirements as directed by the State*
19 *Department of Health Care Services, and that all expenditures are*
20 *consistent with the requirements of the Mental Health Services*
21 *Act.*

22 ~~(e) The State Department of Mental Health shall not issue~~
23 ~~guidelines for the Integrated Plans for Prevention, Innovation, and~~
24 ~~System of Care Services before January 1, 2012.~~

25 ~~(d)~~

26 (c) The programs established pursuant to paragraphs (2) and
27 (3) of subdivision (b) shall include services to address the needs
28 of transition age youth ages 16 to 25. In implementing this
29 subdivision, county mental health programs shall consider the
30 needs of transition age foster youth.

31 (d) *Each year the State Department of Health Care Services*
32 *shall inform the California Mental Health Directors Association*
33 *and the Mental Health Services Oversight and Accountability*
34 *Commission of the methodology used for revenue allocation to the*
35 *counties.*

36 ~~(e) Each year the State Department of Mental Health, in~~
37 ~~consultation with the California Mental Health Directors~~
38 ~~Association, the Mental Health Services Oversight and~~
39 ~~Accountability Commission, and the Mental Health Planning~~
40 ~~Council, shall inform counties of the amounts of funds available~~

1 ~~for services to children pursuant to Part 4 (commencing with~~
2 ~~Section 5850), and to adults and seniors pursuant to Part 3~~
3 ~~(commencing with Section 5800). Each county mental health~~
4 ~~program shall prepare expenditure plans pursuant to Part 3~~
5 ~~(commencing with Section 5800) for adults and seniors, Part 3.2~~
6 ~~(commencing with Section 5830) for innovative programs, Part~~
7 ~~3.6 (commencing with Section 5840) for prevention and early~~
8 ~~intervention programs, and Part 4 (commencing with Section 5850)~~
9 ~~for services for children, and updates to the plans developed~~
10 ~~pursuant to this section. Each expenditure update shall indicate~~
11 ~~the number of children, adults, and seniors to be served pursuant~~
12 ~~to Part 3 (commencing with Section 5800), and Part 4~~
13 ~~(commencing with Section 5850), and the cost per person. The~~
14 ~~expenditure update shall include utilization of unspent funds~~
15 ~~allocated in the previous year and the proposed expenditure for~~
16 ~~the same purpose.~~

17 (f) A county mental health program shall include an allocation
18 of funds from a reserve established pursuant to paragraph (7) of
19 subdivision (b) for services pursuant to paragraphs (2) and (3) of
20 subdivision (b) in years in which the allocation of funds for services
21 pursuant to subdivision (e) are not adequate to continue to serve
22 the same number of individuals as the county had been serving in
23 the previous fiscal year.

24 *SEC. 10. Section 5848 of the Welfare and Institutions Code is*
25 *amended to read:*

26 5848. (a) Each *three-year program and expenditure* plan and
27 update shall be developed with local stakeholders, including adults
28 and seniors with severe mental illness, families of children, adults,
29 and seniors with severe mental illness, providers of services, law
30 enforcement agencies, education, social services agencies, veterans,
31 representatives from veterans organizations, *providers of alcohol*
32 *and drug services, health care organizations*, and other important
33 interests. A draft plan and update shall be prepared and circulated
34 for review and comment for at least 30 days to representatives of
35 stakeholder interests and any interested party who has requested
36 a copy of the draft plans.

37 (b) The mental health board established pursuant to Section
38 5604 shall conduct a public hearing on the draft *three-year program*
39 *and expenditure* plan and annual updates at the close of the 30-day
40 comment period required by subdivision (a). Each adopted

1 *three-year program and expenditure* plan and update shall include
2 any substantive written recommendations for revisions. The
3 adopted *three-year program and expenditure* plan or update shall
4 summarize and analyze the recommended revisions. The mental
5 health board shall review the adopted plan or update and make
6 recommendations to the county mental health department for
7 revisions.

8 ~~(c) The department shall establish requirements for the content~~
9 ~~of the plans.~~ The plans shall include reports on the achievement
10 of performance outcomes for services pursuant to Part 3
11 (commencing with Section 5800), Part 3.6 (commencing with
12 Section 5840), and Part 4 (commencing with Section 5850) funded
13 by the Mental Health Services Fund and established *jointly* by the
14 ~~department~~ *Department of Health Care Services and the Mental*
15 *Health Services Oversight and Accountability Commission, in*
16 *collaboration with the California Mental Health Directors*
17 *Association.*

18 (d) Mental health services provided pursuant to Part 3
19 (commencing with Section 5800), and Part 4 (commencing with
20 Section 5850), shall be included in the review of program
21 performance by the California Mental Health Planning Council
22 required by paragraph (2) of subdivision (c) of Section 5772 and
23 in the local mental health board's review and comment on the
24 performance outcome data required by paragraph (7) of subdivision
25 (a) of Section 5604.2.

26 *SEC. 11. Section 5878.1 of the Welfare and Institutions Code*
27 *is amended to read:*

28 5878.1. (a) It is the intent of this article to establish programs
29 that ~~assure~~ *ensure* services will be provided to severely mentally
30 ill children as defined in Section 5878.2 and that they be part of
31 the children's system of care established pursuant to this part. It
32 is the intent of this act that services provided under this chapter to
33 severely mentally ill children are accountable, developed in
34 partnership with youth and their families, culturally competent,
35 and individualized to the strengths and needs of each child and
36 ~~their~~ *his or her* family.

37 (b) Nothing in this act shall be construed to authorize any
38 services to be provided to a minor without the consent of the child's
39 parent or legal guardian beyond those already authorized by
40 existing statute.

1 *SEC. 12. Section 5878.3 of the Welfare and Institutions Code*
2 *is amended to read:*

3 5878.3. (a) Subject to the availability of funds as determined
4 pursuant to Part 4.5 (commencing with Section 5890) of this
5 division, county mental health programs shall offer services to
6 severely mentally ill children for whom services under any other
7 public or private insurance or other mental health or entitlement
8 program is inadequate or unavailable. Other entitlement programs
9 include but are not limited to mental health services available
10 pursuant to Medi-Cal, child welfare, and special education
11 programs. The funding shall cover only those portions of care that
12 cannot be paid for with public or private insurance, other mental
13 health funds or other entitlement programs.

14 (b) Funding shall be at sufficient levels to ensure that counties
15 can provide each child served all of the necessary services set forth
16 in the applicable treatment plan developed in accordance with this
17 part, including services where appropriate and necessary to prevent
18 an out of home placement, such as services pursuant to Chapter 4
19 (commencing with Section 18250) of Part 6 of Division 9.

20 (c) The State Department of ~~Mental Health~~ *Care Services* shall
21 contract with county mental health programs for the provision of
22 services under this article in the manner set forth in Section 5897.

23 *SEC. 13. Section 5890 of the Welfare and Institutions Code is*
24 *amended to read:*

25 5890. (a) The Mental Health Services Fund is hereby created
26 in the State Treasury. The fund shall be administered by the state.
27 Notwithstanding Section 13340 of the Government Code, all
28 moneys in the fund are, except as provided in subdivision (d) of
29 Section 5892, continuously appropriated, without regard to fiscal
30 years, for the purpose of funding the following programs and other
31 related activities as designated by other provisions of this division:

32 (1) Part 3 (commencing with Section 5800), the Adult and Older
33 Adult System of Care Act.

34 (2) *Part 3.2 (commencing with Section 5830), Innovative*
35 *Programs.*

36 ~~(2)~~

37 (3) Part 3.6 (commencing with Section 5840), Prevention and
38 Early Intervention Programs.

39 ~~(3)~~

1 (4) Part 4 (commencing with Section 5850), the Children's
2 Mental Health Services Act.

3 (b) Nothing in the establishment of this fund, nor any other
4 provisions of the act establishing it or the programs funded shall
5 be construed to modify the obligation of health care service plans
6 and disability insurance policies to provide coverage for mental
7 health services, including those services required under Section
8 1374.72 of the Health and Safety Code and Section 10144.5 of the
9 Insurance Code, related to mental health parity. Nothing in this
10 act shall be construed to modify the oversight duties of the
11 Department of Managed Health Care or the duties of the
12 Department of Insurance with respect to enforcing these obligations
13 of plans and insurance policies.

14 (c) Nothing in this act shall be construed to modify or reduce
15 the existing authority or responsibility of the State Department of
16 ~~Mental Health Care Services~~.

17 (d) The State Department of Health Care Services, ~~in~~
18 ~~consultation with the State Department of Mental Health~~, shall
19 seek approval of all applicable federal Medicaid approvals to
20 maximize the availability of federal funds and eligibility of
21 participating children, adults, and seniors for medically necessary
22 care.

23 (e) Share of costs for services pursuant to Part 3 (commencing
24 with Section 5800), and Part 4 (commencing with Section 5850)
25 of this division, shall be determined in accordance with the
26 Uniform Method for Determining Ability to Pay applicable to
27 other publicly funded mental health services, unless this Uniform
28 Method is replaced by another method of determining co-payments,
29 in which case the new method applicable to other mental health
30 services shall be applicable to services pursuant to Part 3
31 (commencing with Section 5800), and Part 4 (commencing with
32 Section 5850) of this division.

33 *SEC. 14. Section 5891 of the Welfare and Institutions Code is*
34 *amended to read:*

35 5891. (a) The funding established pursuant to this act shall be
36 utilized to expand mental health services. Except as provided in
37 subdivision (j) of Section 5892 due to the state's fiscal crisis, these
38 funds shall not be used to supplant existing state or county funds
39 utilized to provide mental health services. The state shall continue
40 to provide financial support for mental health programs with not

1 less than the same entitlements, amounts of allocations from the
2 General Fund or from the Local Revenue Fund 2011 in the State
3 Treasury, and formula distributions of dedicated funds as provided
4 in the last fiscal year which ended prior to the effective date of
5 this act. The state shall not make any change to the structure of
6 financing mental health services, which increases a county's share
7 of costs or financial risk for mental health services unless the state
8 includes adequate funding to fully compensate for such increased
9 costs or financial risk. These funds shall only be used to pay for
10 the programs authorized in Section 5892. These funds may not be
11 used to pay for any other program. These funds may not be loaned
12 to the state General Fund or any other fund of the state, or a county
13 general fund or any other county fund for any purpose other than
14 those authorized by Section 5892.

15 (b) Notwithstanding subdivision (a), the Controller may use the
16 funds created pursuant to this part for loans to the General Fund
17 as provided in Sections 16310 and 16381 of the Government Code.
18 Any such loan shall be repaid from the General Fund with interest
19 computed at 110 percent of the Pooled Money Investment Account
20 rate, with interest commencing to accrue on the date the loan is
21 made from the fund. This subdivision does not authorize any
22 transfer that would interfere with the carrying out of the object for
23 which these funds were created.

24 (c) Commencing July 1, 2012, on or before the 15th day of each
25 month, *pursuant to a methodology provided by the State*
26 *Department of Health Care Services*, the Controller shall distribute
27 to each Local Mental Health Service Fund established by counties
28 pursuant to subdivision (f) of Section 5892, all unexpended and
29 unreserved funds on deposit as of the last day of the prior month
30 in the Mental Health Services Fund, established pursuant to Section
31 5890, for the provision of programs and other related activities set
32 forth in Part 3 (commencing with Section 5800), Part 3.2
33 (commencing with Section 5830), Part 3.6 (commencing with
34 Section 5840), and Part 4 (commencing with Section 5850).

35 **Funding distributions**

36 (d) ~~Counties shall be based~~ *base their expenditures* on the
37 ~~amount specified in the~~ county mental health program's three-year
38 *program and expenditure plan or annual update*, as required by
39 Section 5847. Nothing in this subdivision shall affect subdivision
40 (a) or (b).

1 *SEC. 15. Section 5892 of the Welfare and Institutions Code is*
2 *amended to read:*

3 5892. (a) In order to promote efficient implementation of this
4 act ~~allocate the following portions of funds available in, the county~~
5 *shall use funds distributed from the Mental Health Services Fund*
6 ~~in 2005–06 and each year thereafter as follows:~~

7 (1) In 2005–06, 2006–07, and in 2007–08 10 percent shall be
8 placed in a trust fund to be expended for education and training
9 programs pursuant to Part 3.1.

10 (2) In 2005–06, 2006–07 and in 2007–08 10 percent for capital
11 facilities and technological needs distributed to counties in
12 accordance with a formula developed in consultation with the
13 California Mental Health Directors Association to implement plans
14 developed pursuant to Section 5847.

15 (3) *Twenty percent of funds distributed to the counties pursuant*
16 ~~*to subdivision (c) of Section 5891 shall be used for prevention and*~~
17 ~~*early intervention programs distributed to counties in accordance*~~
18 ~~*with a formula developed in consultation with the California*~~
19 ~~*Mental Health Directors Association pursuant to Part 3.6*~~
20 ~~*(commencing with Section 5840) of this division.*~~

21 (4) ~~The allocation expenditure for prevention and early~~
22 ~~intervention may be increased in any county in which the~~
23 ~~department determines that the increase will decrease the need and~~
24 ~~cost for additional services to severely mentally ill persons in that~~
25 ~~county by an amount at least commensurate with the proposed~~
26 ~~increase. The statewide allocation for prevention and early~~
27 ~~intervention may be increased whenever the Mental Health Services~~
28 ~~Oversight and Accountability Commission determines that all~~
29 ~~counties are receiving all necessary funds for services to severely~~
30 ~~mentally ill persons and have established prudent reserves and~~
31 ~~there are additional revenues available in the fund.~~

32 (5) The balance of funds shall be distributed to county mental
33 health programs for services to persons with severe mental illnesses
34 pursuant to Part 4 (commencing with Section 5850), for the
35 children’s system of care and Part 3 (commencing with Section
36 5800), for the adult and older adult system of care.

37 (6) Five percent of the total funding for each county mental
38 health program for Part 3 (commencing with Section 5800), Part
39 3.6 (commencing with Section 5840), and Part 4 (commencing

1 with Section 5850) of this division, shall be utilized for innovative
2 programs in accordance with Sections 5830, 5847, and 5848.

3 (b) In any year after 2007–08, programs for services pursuant
4 to Part 3 (commencing with Section 5800), and Part 4
5 (commencing with Section 5850) of this division may include
6 funds for technological needs and capital facilities, human resource
7 needs, and a prudent reserve to ensure services do not have to be
8 significantly reduced in years in which revenues are below the
9 average of previous years. The total allocation for purposes
10 authorized by this subdivision shall not exceed 20 percent of the
11 average amount of funds allocated to that county for the previous
12 five years pursuant to this section.

13 (c) The allocations pursuant to subdivisions (a) and (b) shall
14 include funding for annual planning costs pursuant to Section 5848.
15 The total of these costs shall not exceed 5 percent of the total of
16 annual revenues received for the fund. The planning costs shall
17 include funds for county mental health programs to pay for the
18 costs of consumers, family members, and other stakeholders to
19 participate in the planning process and for the planning and
20 implementation required for private provider contracts to be
21 significantly expanded to provide additional services pursuant to
22 Part 3 (commencing with Section 5800), and Part 4 (commencing
23 with Section 5850) of this division.

24 (d) Prior to making the allocations pursuant to subdivisions (a),
25 (b), and (c), funds shall be reserved for the costs for the State
26 Department of ~~Mental Health Care Services~~, the California Mental
27 Health Planning Council, ~~and the Office of Statewide Health~~
28 ~~Planning and Development~~, the Mental Health Services Oversight
29 and Accountability Commission, *the State Department of Public*
30 *Health, and any other state agency* to implement all duties pursuant
31 to the programs set forth in this section. These costs shall not
32 exceed 3.5 percent of the total of annual revenues received for the
33 fund. The administrative costs shall include funds to assist
34 consumers and family members to ensure the appropriate state and
35 county agencies give full consideration to concerns about quality,
36 structure of service delivery, or access to services. The amounts
37 allocated for administration shall include amounts sufficient to
38 ensure adequate research and evaluation regarding the effectiveness
39 of services being provided and achievement of the outcome
40 measures set forth in Part 3 (commencing with Section 5800), Part

1 3.6 (commencing with Section 5840), and Part 4 (commencing
2 with Section 5850) of this division. The amount of funds available
3 for the purposes of this subdivision in any fiscal year shall be
4 subject to appropriation in the annual Budget Act.

5 (e) In 2004–05 funds shall be allocated as follows:

6 (1) Forty-five percent for education and training pursuant to
7 Part 3.1 (commencing with Section 5820) of this division.

8 (2) Forty-five percent for capital facilities and technology needs
9 in the manner specified by paragraph (2) of subdivision (a).

10 (3) Five percent for local planning in the manner specified in
11 subdivision (c).

12 (4) Five percent for state implementation in the manner specified
13 in subdivision (d).

14 (f) Each county shall place all funds received from the State
15 Mental Health Services Fund in a local Mental Health Services
16 Fund. The Local Mental Health Services Fund balance shall be
17 invested consistent with other county funds and the interest earned
18 on the investments shall be transferred into the fund. The earnings
19 on investment of these funds shall be available for distribution
20 from the fund in future years.

21 (g) All expenditures for county mental health programs shall
22 be consistent with a currently approved plan or update pursuant
23 to Section 5847.

24 (h) Other than funds placed in a reserve in accordance with an
25 approved plan, any funds allocated to a county which have not
26 been spent for their authorized purpose within three years shall
27 revert to the state to be deposited into the fund and available for
28 other counties in future years, provided however, that funds for
29 capital facilities, technological needs, or education and training
30 may be retained for up to 10 years before reverting to the fund.

31 (i) If there are still additional revenues available in the fund
32 after the Mental Health Services Oversight and Accountability
33 Commission has determined there are prudent reserves and no
34 unmet needs for any of the programs funded pursuant to this
35 section, including all purposes of the Prevention and Early
36 Intervention Program, the commission shall develop a plan for
37 expenditures of these revenues to further the purposes of this act
38 and the Legislature may appropriate these funds for any purpose
39 consistent with the commission's adopted plan which furthers the
40 purposes of this act.

1 (j) For the 2011–12 fiscal year, General Fund revenues will be
2 insufficient to fully fund many existing mental health programs,
3 including Early and Periodic Screening, Diagnosis, and Treatment
4 (EPSDT), Medi-Cal Specialty Mental Health Managed Care, and
5 mental health services provided for special education pupils. In
6 order to adequately fund those programs for the 2011–12 fiscal
7 year and avoid deeper reductions in programs that serve individuals
8 with severe mental illness and the most vulnerable, medically
9 needy citizens of the state, prior to distribution of funds under
10 paragraphs (1) to (6), inclusive, of subdivision (a), effective July
11 1, 2011, moneys shall be allocated from the Mental Health Services
12 Fund to the counties as follows:

13 (1) Commencing July 1, 2011, one hundred eighty-three million
14 six hundred thousand dollars (\$183,600,000) of the funds available
15 as of July 1, 2011, in the Mental Health Services Fund, shall be
16 allocated in a manner consistent with subdivision (c) of Section
17 5778 and based on a formula determined by the state in
18 consultation with the California Mental Health Directors
19 Association to meet the fiscal year 2011–12 General Fund
20 obligation for Medi-Cal Specialty Mental Health Managed Care.

21 (2) Upon completion of the allocation in paragraph (1), the
22 Controller shall distribute to counties ninety-eight million five
23 hundred eighty-six thousand dollars (\$98,586,000) from the Mental
24 Health Services Fund for mental health services for special
25 education pupils based on a formula determined by the state in
26 consultation with the California Mental Health Directors
27 Association.

28 (3) Upon completion of the allocation in paragraph (2), the
29 Controller shall distribute to counties 50 percent of their 2011–12
30 Mental Health Services Act component allocations consistent with
31 Sections 5847 and 5891, not to exceed four hundred eighty-eight
32 million dollars (\$488,000,000). This allocation shall commence
33 beginning August 1, 2011.

34 (4) Upon completion of the allocation in paragraph (3), and as
35 revenues are deposited into the Mental Health Services Fund, the
36 Controller shall distribute five hundred seventy-nine million dollars
37 (\$579,000,000) from the Mental Health Services Fund to counties
38 to meet the General Fund obligation for EPSDT for fiscal year
39 2011–12. These revenues shall be distributed to counties on a
40 quarterly basis and based on a formula determined by the state in

1 consultation with the California Mental Health Directors
2 Association. These funds shall not be subject to reconciliation or
3 cost settlement.

4 (5) The Controller shall distribute to counties the remaining
5 2011–12 Mental Health Services Act component allocations
6 consistent with Sections 5847 and 5891, beginning no later than
7 April 30, 2012. These remaining allocations shall be made on a
8 monthly basis.

9 (6) The total one-time allocation from the Mental Health
10 Services Fund for EPSDT, Medi-Cal Specialty Mental Health
11 Managed Care, and mental health services provided to special
12 education pupils as referenced shall not exceed eight hundred
13 sixty-two million dollars (\$862,000,000). Any revenues deposited
14 in the Mental Health Services Fund in fiscal year 2011–12 that
15 exceed this obligation shall be distributed to counties for remaining
16 fiscal year 2011–12 Mental Health Services Act component
17 allocations, consistent with Sections 5847 and 5891.

18 (k) Subdivision (j) shall not be subject to repayment.

19 (l) Subdivision (j) shall become inoperative on July 1, 2012.

20 *SEC. 16. Section 5897 of the Welfare and Institutions Code is*
21 *amended to read:*

22 5897. (a) Notwithstanding any other provision of state law,
23 the State Department of ~~Mental Health Care Services~~ shall
24 implement the mental health services provided by Part 3
25 (commencing with Section 5800), Part 3.6 (commencing with
26 Section 5840), and Part 4 (commencing with Section 5850) of this
27 division through contracts with county mental health programs or
28 counties acting jointly. A contract may be exclusive and may be
29 awarded on a geographic basis. As used herein a county mental
30 health program includes a city receiving funds pursuant to Section
31 5701.5.

32 (b) Two or more counties acting jointly may agree to deliver or
33 subcontract for the delivery of such mental health services. The
34 agreement may encompass all or any part of the mental health
35 services provided pursuant to these parts. Any agreement between
36 counties shall delineate each county's responsibilities and fiscal
37 liability.

38 (c) The department shall implement the provisions of Part 3
39 (commencing with Section 5800), Part 3.2 (commencing with
40 Section 5830), Part 3.6 (commencing with Section 5840), and Part

1 4 (commencing with Section 5850) of this division through the
2 annual county mental health services performance contract, as
3 specified in Chapter 2 (commencing with Section 5650) of Part 2
4 of Division 5.

5 (d) When a county mental health program is not in compliance
6 with its performance contract, the department may request a plan
7 of correction with a specific timeline to achieve improvements.

8 (e) Contracts awarded by the State Department of ~~Mental Health~~
9 *Care Services*, the California Mental Health Planning Council, *the*
10 *Office of Statewide Health Planning and Development*, and the
11 Mental Health Services Oversight and Accountability Commission
12 pursuant to Part 3 (commencing with Section 5800), Part 3.1
13 (commencing with Section 5820), Part 3.2 (commencing with
14 Section 5830), Part 3.6 (commencing with Section 5840), Part 3.7
15 (commencing with Section 5845), Part 4 (commencing with Section
16 5850), and Part 4.5 (commencing with Section 5890) of this
17 division, may be awarded in the same manner in which contracts
18 are awarded pursuant to Section 5814 and the provisions of
19 subdivisions (g) and (h) of Section 5814 shall apply to such
20 contracts.

21 (f) For purposes of Section 5775, the allocation of funds
22 pursuant to Section 5892 which are used to provide services to
23 Medi-Cal beneficiaries shall be included in calculating anticipated
24 county matching funds and the transfer to the ~~department~~ *State*
25 *Department of Health Care Services* of the anticipated county
26 matching funds needed for community mental health programs.

27 *SEC. 17. Section 5898 of the Welfare and Institutions Code is*
28 *amended to read:*

29 5898. The ~~state~~ *State Department of Health Care Services, in*
30 *consultation with the Mental Health Services Oversight and*
31 *Accountability Commission*, shall develop regulations, as necessary,
32 for the State Department of ~~Mental Health Care Services~~, the
33 Mental Health Services Oversight and Accountability Commission,
34 or designated state and local agencies to implement this act.
35 Regulations adopted pursuant to this section shall be developed
36 with the maximum feasible opportunity for public participation
37 and comments.

38 *SEC. 18. Section 5899 is added to the Welfare and Institutions*
39 *Code, to read:*

1 5899. (a) *The State Department of Health Care Services, in*
2 *consultation with the Mental Health Services Oversight and*
3 *Accountability Commission and the California Mental Health*
4 *Directors Association, shall develop and administer instructions*
5 *for the Annual Mental Health Services Act Revenue and*
6 *Expenditure Report. This report shall be submitted electronically*
7 *to the department and to the Mental Health Services Oversight*
8 *and Accountability Commission.*

9 (b) *The purpose of the Annual Mental Health Services Act*
10 *Revenue and Expenditure Report is as follows:*

11 (1) *Identify the expenditures of Mental Health Services Act*
12 *(MHSA) funds that were distributed to each county.*

13 (2) *Quantify the amount of additional funds generated for the*
14 *mental health system as a result of the MHSA.*

15 (3) *Identify unexpended funds, and interest earned on MHSA*
16 *funds.*

17 (4) *Determine reversion amounts, if applicable, from prior fiscal*
18 *year distributions.*

19 (c) *This report is intended to provide information that allows*
20 *for the evaluation of all of the following:*

21 (1) *Children’s systems of care.*

22 (2) *Prevention and early intervention strategies.*

23 (3) *Innovative projects.*

24 (4) *Workforce education and training.*

25 (5) *Adults and older adults systems of care.*

26 (6) *Capital facilities and technology needs.*

27 *SEC. 19. The Legislature finds and declares that this act*
28 *clarifies procedures and terms of the Mental Health Services Act*
29 *within the meaning of Section 18 of the Mental Health Services*
30 *Act.*

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**All matter omitted in this version of the bill
appears in the bill as introduced in the
Senate, February 21, 2012. (JR11)**