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## SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair  
2015 - 2016 Regular

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**Bill No:** AB 1018  
**Author:** Cooper  
**Version:** May 28, 2015  
**Urgency:** No  
**Consultant:** Lynn Lorber  
**Hearing Date:** June 24, 2015  
**Fiscal:** Yes

**Subject:** Medi-Cal: Early and Periodic Screening, Diagnosis, and Treatment (EPSDT)

**NOTE:** This bill has been referred to the Committees on Education and Health. A “do pass” motion should include referral to the Committee on Health.

### SUMMARY

This bill requires the California Department of Education and the Department of Health Care Services to convene a task force to examine the delivery of mental health services through the Early and Periodic Screening, Diagnosis, and Treatment services.

### BACKGROUND

The federal Individuals with Disabilities Education Act provides that students with exceptional needs identified as having “emotional disturbance” may be eligible to receive mental health services. Mental health services are considered “related services” and include counseling, psychological services, parent counseling and training, and residential placement, among others. (United States Code, Title 20, § 1400 et seq. and Code of Federation Regulations, Title 34, § 300.34)

AB 114 (Committee on Budget), Chapter 43, Statutes of 2011, shifted responsibility for mental health services for students from counties to local educational agencies (LEAs). Any and all services identified in a student’s individualized education program (IEP) must be provided, whether directly by LEA employees or through contract with outside providers such as county mental health agencies. LEAs are required to ensure services are provided to students regardless of who provides or pays for those services. (Education Code § 56139)

The Early and Periodic Screening, Diagnostic and Treatment program (EPSDT) is a Medi-Cal benefit for people under the age of 21 who have “full-scope” Medi-Cal eligibility. This benefit allows for periodic screenings to determine health care needs and based upon the identified health care need and diagnosis, treatment services are provided. EPSDT services include all services otherwise covered by Medi-Cal, and EPSDT beneficiaries can receive additional medically necessary services. EPSDT 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.

## ANALYSIS

This bill requires the California Department of Education (CDE) and the Department of Health Care Services (DHCS) to convene a task force to examine the delivery of mental health services through the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services. Specifically, this bill:

- 1) Provides that the goal of the task force is to ensure that children are provided accessible and coordinated care that is compliant with state and federal law, in a way that is maximally cost-effective for the State.
- 2) Requires the task force to consider all of the following:
  - a) Whether current technical assistance and guidance to county mental health plans and schools is sufficient to optimize service delivery and overall cost-effectiveness of service delivery.
  - b) Whether current funding arrangements for services available through the EPSDT program and pursuant to the federal IDEA maximize federal funding to the State for provision of these services.
  - c) Issuing best practice guidelines for how special education local plan areas and county mental health plans can work together to optimize access to federal financial participation for eligible services in both systems.
  - d) How disputes over responsibility for service delivery is, and should be, resolved in cases where children are dually eligible for EPSDT services and services pursuant to the federal Individuals with Disabilities Education Act (IDEA).
- 3) Requires the task force to hold at least two public meetings by October 1, 2016, and report to the Legislature by January 1, 2017, a summary of key findings and recommendations for further action, if any.
- 4) Requires the task force to solicit information from relevant stakeholders.
- 5) Sunsets the provision of this bill on January 1, 2021.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “The Early and Periodic Screening, Diagnosis, and Treatment program (EPSDT) Medi-Cal funding has always been part of the total funding package for serving the mental health needs of pupils with disabilities. The state shifted 100% of the mental health service responsibility to schools in 2011 but did not shift access to all the funding that is available to reimburse schools for delivering the services to students. There is no state policy or direction on how a local educational agency (LEA) or special education local plan area (SELPA) can seek direct access to the Medi-Cal funding for the EPSDT program through county managed care. Instead, it is up to each individual LEA or SELPA to negotiate directly with their county mental health program on whether this

option would work in their area. This has created a hurdle for many local educational agencies (LEAs) and special education local plan areas (SELPAs) across the state.”

- 2) **Specialty mental health services.** Prior to 2012, a student with exceptional needs with mental health needs and services documented in the student’s individualized education plan (IEP) was referred by the LEA to county mental health agencies for treatment, as called for under AB 3632 (Willie Brown, Ch. 26, 1984). AB 114 (Committee on Budget, Ch. 43, 2011) shifted responsibility for providing and funding Individuals with Disabilities Education Act (IDEA)-related mental health services from county mental health agencies to LEAs (the Superintendent of Public Instruction is responsible for monitoring LEAs to ensure compliance).

LEAs are responsible for educationally-necessary mental health services that are identified in a student’s IEP, but are prohibited from directly providing or billing for EPDST services unless the county mental health department chooses to contract with the LEA for those services (Early and Periodic Screening, Diagnosis, and Treatment program (EPSDT) is considered “specialty” mental health). LEAs are required to ensure services identified in a student’s IEP are provided, regardless of whether the county directly provides services, denies services, or reimburses the school for any costs if the LEA provides services (in cases where LEA provides services covered under general Medi-Cal that overlap with EPSDT services).

According to California Department of Education (CDE), LEAs may use one or more of the following options for sourcing mental health services to Medi-Cal eligible students (including EPSDT and other mental health services):

- a) Provide and pay for services without seeking Medi-Cal reimbursement.
- b) Use the LEA Medi-Cal Billing Option Program. Through this program, the LEA employs or contracts with qualified practitioners to provide the services pursuant to the IEP, pays for the services, and submits a claim for reimbursement. In order to use this option, the LEA must meet a number of administrative conditions, including enrollment as a Medi-Cal provider.
- c) For EPSDT services, collaborate with county mental health departments to secure the specialty mental health services through the county mental health plan. There are two ways an LEA can secure these services:
  - i) Enter into a contract or Memorandum of Understanding with the mental health plan for a specialty mental health service or an array of specialty mental health services. In this case, county mental health plans provide the service and incur the cost, and bill Medi-Cal for federal reimbursement.
  - ii) Request to be a certified provider of Medi-Cal specialty mental health services from the county mental health plan. If the county mental health plan certifies the LEA as an organizational provider, the LEA would provide

the specialty mental health service through a local educational agency (LEA)-qualified employee and submit a claim to the county mental health plan for reimbursement. <http://www.cde.ca.gov/sp/se/ac/optsrldsvcs.asp>

- 3) **Audit request.** Senator Beall requested an audit of mental health services for students, which was approved by the Joint Legislative Audit Committee on April 22, 2015. The audit request covers mental health services more broadly than Early and Periodic Screening, Diagnosis, and Treatment program (EPSDT) services. Specifically, the request asks for the audit to, among other things:
- a) Provide the following information for pre- and post-AB 114 disaggregated by students for whom an IEP identifies them as emotionally disturbed, for students whose IEP may also call for mental health services, and for students who qualify or do not qualify for Med-Cal services:
    - i) Compare the number of students each special education local plan area (SELPA) served under AB 3632 to the number served under AB 114.
    - ii) Determine whether the type of frequency of service, and the providers of services, changed under the transition from AB 3632 to AB 114.
    - iii) For a selection of students served under AB 3632, determine whether their IEPs were changed during the SELPA's transition to AB 114.
  - b) Determine whether changes in treatment were made by service providers as a result of the transition from AB 3632 to AB 114.
  - c) Identify the state and federal funding sources for mental health services for students with disabilities, for the past five fiscal years.
  - d) Identify the number of students with mental health issues in California and compare that to the number of students actually receiving services.
- 4) **Fiscal impact.** According to the Assembly Appropriations Committee, this bill would impose one-time administrative costs to DHCS, likely under \$100,000 (General Fund/federal) to staff support for a stakeholder workgroup.
- 5) **Related and prior legislation.**

#### *RELATED LEGISLATION*

AB 1133 (Achadjian, 2015 ) 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 LEAs in providing mental health services at school sites. AB 1133 was held on the Assembly Appropriations Committee's suspense file.

AB 1299 (Ridley-Thomas, 2015) requires the California Health and Human Services Agency to coordinate with Department of Health Care Services (DHCS) and the Department of Social Services to facilitate the receipt of medically necessary

specialty mental health services by foster youth, as specified, and for Department of Health Care Services (DHCS) to meet specific conditions on or before July 1, 2016. AB 1299 is pending in the Senate Human Services Committee.

*PRIOR LEGISLATION*

AB 2212 (Gray, 2014) required DHCS to allow county mental health plans to contract with local educational agencies (LEAs) to provide Early and Periodic Screening, Diagnosis, and Treatment program (EPSDT) services. AB 2212 was held on the Assembly Appropriations Committee's suspense file.

**SUPPORT**

Association of California School Administrators  
California Association of School Business Officials  
California School Boards Association  
Coalition for Adequate Funding for Special Education  
Santa Clara County Office of Education  
SELPA Administrators of California  
Special Opportunities for Access & Reform Coalition

**OPPOSITION**

California Right to Life Committee

**-- END --**