

**ASSEMBLY BILL**

**No. 309**

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**Introduced by Assembly Members Gabriel and O'Donnell**

January 25, 2021

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An act to add Section 49428.1 to the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

AB 309, as introduced, Gabriel. Pupil mental health: model referral protocols.

Existing law requires the governing board of a school district to give diligent care to the health and physical development of pupils and authorizes the governing board of a school district to employ properly certified persons for this purpose. Existing law requires a school of a school district or county office of education and a charter school to notify pupils and parents or guardians of pupils no less than twice during the school year on how to initiate access to available pupil mental health services on campus or in the community, or both, as provided.

This bill would require the State Department of Education to develop model referral protocols, as provided, for addressing pupil mental health concerns. The bill would require the department to consult with various entities in developing the protocols, including current classroom teachers and administrators. The bill would require the department to post the model referral protocols on its internet website. The bill would make these provisions contingent upon funds being appropriated for its purpose in the annual Budget Act or other legislation, or state, federal, or private funds being allocated for this purpose.

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. (a) The Legislature finds and declares all of the  
2 following:  
3 (1) Research points to a strong connection between mental  
4 wellness and academic achievement.  
5 (2) Research demonstrates that early detection and treatment of  
6 mental illness improves attendance, behavior, and academic  
7 achievement.  
8 (3) Before the COVID-19 pandemic, it was estimated that 20  
9 percent of children have mental health issues, 80 percent of whom  
10 are estimated to be undiagnosed and untreated. The lack of  
11 attention to a child’s mental health has significant effects on the  
12 child’s school achievement and life outcomes.  
13 (4) Mental health challenges disproportionately impact pupils  
14 who face stressors such as violence, trauma, and poverty.  
15 (5) California’s educators report their lack of preparedness in  
16 addressing pupil mental health challenges as a major barrier to  
17 instruction. Most educators and staff lack training to identify pupils  
18 who may be in need of support and to make referrals, as  
19 appropriate, to help pupils overcome and manage mental health  
20 issues and succeed in school.  
21 (6) The State Department of Education has identified inadequate  
22 service referral and inconsistent pupil mental health policies as  
23 major factors contributing to pupils’ lack of access to support for  
24 mental health concerns.  
25 (7) The COVID-19 pandemic has led to massive social and  
26 economic disruptions around the world, and it has particularly  
27 exacerbated mental health issues among school-aged youth. A loss  
28 of routine for many pupils, social isolation, and feelings of  
29 loneliness increase the risk of mental illness. Social distancing and  
30 school closures during the COVID-19 pandemic can worsen  
31 existing mental health problems in pupils and increases the risk  
32 of future mental health issues. An increase in domestic violence  
33 and abuse during the COVID-19 pandemic further exposes pupils  
34 to risks of developing mental health problems. Several recent  
35 surveys of pupils during the COVID-19 pandemic suggest their  
36 mental well-being has been severely harmed or worsened as a  
37 result of the pandemic.

1 (8) Pupils of color, LGBTQ+ pupils, low-income pupils,  
2 first-generation pupils, pupils facing basic needs insecurities, and  
3 international pupils experience greater mental health burdens and  
4 more barriers to assistance. The COVID-19 pandemic has and will  
5 continue to highlight and exacerbate the inequities that exist within  
6 the sphere of mental health care and mental health disorders.

7 (9) Historically, schools may provide a social support network  
8 and mental health services for vulnerable pupils. However, closure  
9 of schools during the COVID-19 pandemic has taken away the  
10 protective layer of school-based mental health support.

11 (10) No model referral protocol exists to guide schools and local  
12 educational agencies in appropriate and timely intervention for  
13 pupil mental health concerns.

14 (11) The State Department of Education is well positioned to  
15 provide state leadership and guidance to local educational agencies  
16 so that they are better able to address pupil mental health concerns.

17 (b) It is therefore the intent of the Legislature in enacting this  
18 measure to direct the development of model, evidence-based  
19 referral protocols for addressing pupil mental health concerns that  
20 may be voluntarily used by schoolsites, school districts, county  
21 offices of education, charter schools, and teacher and administrator  
22 preparation programs.

23 SEC. 2. Section 49428.1 is added to the Education Code, to  
24 read:

25 49428.1. (a) The department shall develop model referral  
26 protocols for addressing pupil mental health concerns. In  
27 developing these protocols, the department shall consult with the  
28 members of the Student Mental Health Policy Workgroup, local  
29 educational agencies that have served as state or regional leaders  
30 in state or federal pupil mental health initiatives, county mental  
31 health programs, current classroom teachers and administrators,  
32 current schoolsite classified staff, current schoolsite staff who hold  
33 pupil personnel services credentials, current school nurses, current  
34 school counselors, and other professionals involved in pupil mental  
35 health as the department deems appropriate.

36 (b) These protocols shall be designed for use, on a voluntary  
37 basis, by schoolsites, school districts, county offices of education,  
38 charter schools, the California School for the Deaf, and the  
39 California School for the Blind, and by teacher, administrator,  
40 school counselor, pupil personnel services, and school nurse

1 preparation programs operated by postsecondary educational  
2 institutions. The protocols shall do all of the following:  
3 (1) Address the appropriate and timely referral by school staff  
4 of pupils with mental health concerns.  
5 (2) Reflect a multitiered system of support processes and  
6 positive behavioral interventions and supports.  
7 (3) Be adaptable to varied local service arrangements for mental  
8 health services.  
9 (4) Reflect evidence-based and culturally appropriate approaches  
10 to pupil mental health referral.  
11 (5) Address the inclusion of parents and guardians in the referral  
12 process.  
13 (6) Be written to ensure clarity and ease of use by certificated  
14 and classified school employees.  
15 (7) Reflect differentiated referral processes for pupils with  
16 disabilities and other populations for whom the referral process  
17 may be distinct.  
18 (8) Be written to ensure that school employees act only within  
19 the authorization or scope of their credential or license. This section  
20 shall not be construed as authorizing or encouraging school  
21 employees to diagnose or treat mental illness unless they are  
22 specifically licensed and employed to do so.  
23 (9) Be consistent with state activities conducted by the  
24 department in the administration of federally funded mental health  
25 programs.  
26 (c) The department shall consider, when developing protocols  
27 under this section, the school mental health referral pathways  
28 toolkit developed by the Substance Abuse and Mental Health  
29 Services Administration of the United States Department of Health  
30 and Human Services.  
31 (d) The department shall post the model referral protocols on  
32 its internet website so that they may be accessed and used by  
33 educational institutions specified in subdivision (b).  
34 (e) This section is contingent upon funds being appropriated  
35 for its purpose to the department in the annual Budget Act or other  
36 legislation, or state, federal, or private funds being allocated for  
37 this purpose.

- 1 (f) The model referral protocols shall be completed and made
- 2 available within two years of the date funds are received or
- 3 allocated to implement this section.

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