

Assembly Bill No. 309

Passed the Assembly September 9, 2021

Chief Clerk of the Assembly

Passed the Senate September 8, 2021

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2021, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 309, 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, administrators, pupils, and parents. 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.

The people of the State of California do enact as follows:

SECTION 1. (a) The Legislature finds and declares all of the following:

- (1) Research points to a strong connection between mental wellness and academic achievement.
- (2) Research demonstrates that early detection and treatment of mental illness improves attendance, behavior, and academic achievement.
- (3) Before the COVID-19 pandemic, it was estimated that 20 percent of children have mental health issues, 80 percent of whom

are estimated to be undiagnosed and untreated. The lack of attention to a child's mental health has significant effects on the child's school achievement and life outcomes.

(4) Mental health challenges disproportionately impact pupils who face stressors such as violence, trauma, and poverty.

(5) California's educators report their lack of preparedness in addressing pupil mental health challenges as a major barrier to instruction. Most educators and staff lack training to identify pupils who may be in need of support and to make referrals, as appropriate, to help pupils overcome and manage mental health issues and succeed in school.

(6) The State Department of Education has identified inadequate service referral and inconsistent pupil mental health policies as major factors contributing to pupils' lack of access to support for mental health concerns.

(7) The COVID-19 pandemic has led to massive social and economic disruptions around the world, and it has particularly exacerbated mental health issues among schoolage youth. A loss of routine for many pupils, social isolation, and feelings of loneliness increase the risk of mental illness. Social distancing and school closures during the COVID-19 pandemic can worsen existing mental health problems in pupils and increases the risk of future mental health issues. An increase in domestic violence and abuse during the COVID-19 pandemic further exposes pupils to risks of developing mental health problems. Several recent surveys of pupils during the COVID-19 pandemic suggest their mental well-being has been severely harmed or worsened as a result of the pandemic.

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

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

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

(11) The State Department of Education, in consultation with the State Department of Health Care Services, is well positioned to provide state leadership and guidance to local educational agencies so that they are better able to address pupil mental health concerns.

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

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

49428.1. (a) The department shall develop model referral protocols for addressing pupil mental health concerns. In developing these protocols, the department shall consult with the State Department of Health Care Services, the members of the Student Mental Health Policy Workgroup, local educational agencies that have served as state or regional leaders in state or federal pupil mental health initiatives, county mental health programs, current classroom teachers and administrators, current schoolsite classified staff, current schoolsite staff who hold pupil personnel services credentials, current school nurses, current school counselors, and other professionals involved in pupil mental health as the department deems appropriate. The department shall also select at least one member of each of the following groups to consult with in developing the protocols:

- (1) Current high school pupils.
- (2) Parents of current high school or middle school pupils.
- (3) Parents of current elementary school pupils.

(b) These protocols shall be designed for use, on a voluntary basis, by schoolsites, school districts, county offices of education, charter schools, the California School for the Deaf, and the California School for the Blind, and by teacher, administrator, school counselor, pupil personnel services, and school nurse preparation programs operated by postsecondary educational institutions. The protocols shall do all of the following:

(1) Address the appropriate and timely referral by school staff of pupils with mental health concerns.

(2) Reflect a multitiered system of support processes and positive behavioral interventions and supports.

(3) Be adaptable to varied local service arrangements for mental health services.

(4) Reflect evidence-based and culturally appropriate approaches to pupil mental health referral.

(5) Address the inclusion of parents and guardians in the referral process.

(6) Be written to ensure clarity and ease of use by certificated and classified school employees.

(7) Reflect differentiated referral processes for pupils with disabilities and other populations for whom the referral process may be distinct.

(8) Be written to ensure that school employees act only within the authorization or scope of their credential or license. This section shall not be construed as authorizing or encouraging school employees to diagnose or treat mental illness unless they are specifically licensed and employed to do so.

(9) Be consistent with state activities conducted by the department in the administration of federally funded mental health programs.

(c) The department shall consider, when developing protocols under this section, the school mental health referral pathways toolkit developed by the Substance Abuse and Mental Health Services Administration of the United States Department of Health and Human Services.

(d) The department shall post the model referral protocols on its internet website so that they may be accessed and used by educational institutions specified in subdivision (b).

(e) This section is contingent upon funds being appropriated for its purpose to the department in the annual Budget Act or other legislation, or state, federal, or private funds being allocated for this purpose.

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

Approved _____, 2021

Governor