

AMENDED IN ASSEMBLY APRIL 5, 2021

CALIFORNIA LEGISLATURE—2021–22 REGULAR SESSION

**ASSEMBLY BILL**

**No. 552**

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**Introduced by Assembly Member Quirk-Silva**

February 10, 2021

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An act to add Article 3 (commencing with Section 49440) to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, relating to pupil health.

LEGISLATIVE COUNSEL'S DIGEST

AB 552, as amended, Quirk-Silva. Integrated School-Based Behavioral Health Partnership Program.

Existing law requires the governing board of any 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 the work.

The School-based Early Mental Health Intervention and Prevention Services for Children Act of 1991 authorizes the Director of Health Care Services, in consultation with the Superintendent of Public Instruction, to award matching grants to local educational agencies to pay the state share of the costs of providing school-based early mental health intervention and prevention services to eligible pupils at schoolsites of eligible pupils, subject to the availability of funding each year. Existing law establishes the Mental Health Student Services Act as a mental health partnership competitive grant program for the purpose of establishing mental health partnerships between a county's mental health or behavioral health departments and school districts, charter schools, and the county office of education within the county, as provided.

This bill would establish the Integrated School-Based Behavioral Health Partnership Program to provide prevention and early intervention for, and access to, behavioral health services for pupils. The bill would authorize a county behavioral health agency and the governing board or governing body of a local educational agency to agree to collaborate on *conducting a needs assessment on the need for school-based mental health and substance use disorder services*, and implement an integrated school-based behavioral health partnership program, to develop a memorandum of understanding outlining the requirements for the partnership program, and to enter into a contract for mental health or substance use disorder services.

As part of a partnership program, the bill would require a county behavioral health agency to provide, through its own staff or through its network of contracted community-based organizations, one or more behavioral health professionals that meet specified contract, licensing, and supervision ~~requirements~~ *requirements, and who have a valid, current satisfactory background check*, to serve pupils with serious emotional disturbances or substance use disorders, or who are at risk of developing a serious behavioral health condition. The bill would require a local educational agency to provide school-based locations, including space at schools, appropriate for the delivery of behavioral health services, and would additionally authorize these services to be provided through telehealth or through appropriate referral. The bill would establish processes for delivering ~~services~~ *services, including prevention, intervention, and intensive intervention services, as specified*, that may be provided pursuant to the partnership program. The bill would require the local educational agency and county behavioral health agency to develop a process related to serving pupils with private insurance, including a process to seek reimbursement from private insurers for behavioral health services provided to a pupil.

The bill would require the partnership program to annually report specified information to the State Department of Health Care Services and the Mental Health Services Oversight and Accountability Commission, and would require the commission, in collaboration with the department, to report that information to the Legislature every ~~three~~ 3 years, as specified.

*The bill would authorize a partnership program to provide services to individuals with exceptional needs, including services required by the pupil's individualized education program, as specified.*

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. The Legislature finds and declares all of the  
2 following:
- 3 (a) In any given year, the percentage of young people with  
4 behavioral health disorders is estimated to be between 14 and 20  
5 percent.
- 6 (b) One-half of all mental illness develops by 14 years of age  
7 and ~~three-quarters~~ *three-quarters* by 24 years of age. Among  
8 adolescents and adults with substance use disorders, 90 percent  
9 began using substances before 18 years of age. Early intervention  
10 and prevention of behavioral health conditions are critical to the  
11 success of an individual’s health, educational goals, and social  
12 relationships.
- 13 (c) Pupils with emotional disturbances have the highest increase  
14 in absenteeism and dropout rates when compared to any other  
15 disability, according to studies.
- 16 (d) In 2017, a child in the United States was 10.1 times more  
17 likely to be seen by an out-of-network provider than a primary  
18 care office visit, which is more than twice the disparity seen for  
19 adults, according to a Milliman report.
- 20 (e) Under health parity law, services treating behavioral health  
21 conditions at the onset to prevent these conditions from becoming  
22 more serious should be part of every health plan’s benefits. Because  
23 of the importance of early intervention for children, private health  
24 plans do or should cover these services for children.
- 25 (f) Schools have been identified as a crucial place to provide  
26 behavioral health services and improve access to services for  
27 pupils, including for pupils in underserved communities, but also  
28 for pupils who are privately insured.
- 29 (g) According to recent research, the COVID-19 pandemic is  
30 affecting the mental health of children and adolescents causing an  
31 increase in depression, anxiety, and risky substance use. As  
32 children and youth return to schools, there will be a growing need  
33 for school-based behavioral health services to address the emotional  
34 harm caused by the COVID-19 pandemic.

1 (h) Beginning in April 2020, the proportion of children’s mental  
 2 health-related emergency department visits among all pediatric  
 3 emergency department visits increased and remained elevated  
 4 through October 2020. Compared with 2019, the proportion of  
 5 mental health-related visits for children 5 to 11 years of age,  
 6 inclusive, and 12 to 17 years of age, inclusive, increased in 2020  
 7 by approximately 24 percent and 31 percent, respectively.

8 SEC. 2. Article 3 (commencing with Section 49440) is added  
 9 to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education  
 10 Code, to read:

11  
 12 Article 3. Integrated School-Based Behavioral Health  
 13 Partnership Program  
 14

15 49440. For purposes of this article, the following definitions  
 16 apply:

17 (a) “At risk of developing a serious behavioral health condition”  
 18 shall be defined by the applicable county behavioral health agency  
 19 and local educational agency pursuant to the partnership program  
 20 described in Section 49440.2.

21 (b) “Brief initial intervention” means Medi-Cal covered  
 22 behavioral health services, as described in paragraph (c), that are  
 23 a subset of essential health benefits, as defined in state and federal  
 24 law, including Section 1300.67.005 of Title 28 of the California  
 25 Code of Regulations, or any successor regulation, the federal Paul  
 26 Wellstone and Pete Domenici Mental Health Parity and Addiction  
 27 Equity Act of 2008 (Public Law 110-343), and Senate Bill 855  
 28 (Chapter 151 of the Statutes of 2020).

29 (c) “Intervention” and ~~“intensive intervention services,” means~~  
 30 *services” mean* select Medi-Cal specialty mental health services  
 31 and substance use disorder services that would be appropriately  
 32 provided at a school-based location or through telehealth, including  
 33 assessments, plan developments, therapy, substance use counseling,  
 34 rehabilitation, collateral services, medication support services,  
 35 therapeutic behavioral services, case management, recovery  
 36 services, and intensive care coordination.

37 (d) “Local educational agency” means a school district, county  
 38 office of education, or charter school.

39 (e) “Participating entity” means a community-based organization  
 40 or other entity, including a local educational agency, that has

1 contracted with a county behavioral health agency to provide  
2 services and participate in the partnership program pursuant to this  
3 article.

4 (f) “Partnership program” means an integrated school-based  
5 behavioral health partnership program established by a county  
6 behavioral health agency and the governing board or governing  
7 body of a local educational agency pursuant to this article. A  
8 partnership program may include one or more participating entities.

9 (g) “Privately insured pupil” means a pupil with comprehensive  
10 health coverage that is not run by the state or federal government.

11 49440.1. The Integrated School-Based Behavioral Health  
12 Partnership Program is hereby established to provide prevention  
13 and early intervention for, and access to, behavioral health services  
14 for pupils with serious emotional disturbances or substance use  
15 disorders, or who are at risk of developing a serious behavioral  
16 health condition.

17 49440.2. A county behavioral health agency and the governing  
18 board or governing body of a local educational agency may agree  
19 to collaborate on *conducting a needs assessment on the need for*  
20 *school-based mental health and substance use disorder services,*  
21 and implement an integrated school-based behavioral health  
22 partnership program pursuant to this article, and may develop a  
23 memorandum of understanding outlining the requirements for the  
24 partnership program, as provided in this article. Multiple local  
25 educational agencies within a single county may join to form a  
26 partnership program with the county behavioral health agency.  
27 The county behavioral health agency and the local educational  
28 agency are encouraged, when appropriate, to formalize the  
29 memorandum of understanding and enter into a contract for the  
30 provision of mental health or substance use disorder services.

31 49440.3. (a) A county behavioral health agency shall  
32 designate and provide, through its own staff or through its network  
33 of contracted participating entities, one or more behavioral health  
34 professionals that meet the licensing and supervision requirements  
35 of one or more of the classifications listed in subdivision (b) to  
36 serve pupils with serious emotional disturbances or substance use  
37 disorders, or who are at risk of developing a serious behavioral  
38 health condition, pursuant to the partnership program.

39 (b) The county behavioral health agency, to secure Medicaid  
40 federal matching funds for school-based services, shall require

- 1 any behavioral health professional who provides mental health or  
2 substance use disorder services pursuant to a partnership program  
3 to contract with the health agency to provide those services and  
4 to hold an active license or credential with one or more of the  
5 following classifications:
- 6 (1) A licensed clinical social worker or registered associate  
7 social worker, as described in Section 4996.18 of the Business and  
8 Professions Code.
  - 9 (2) A licensed marriage and family therapist (MFT) or MFT  
10 associate, as described in subdivision (b) of Section 4980.03 of  
11 the Business and Professions Code.
  - 12 (3) A licensed professional clinical counselor (LPCC) or LPCC  
13 associate, as described in subdivision (f) of Section 4999.12 of the  
14 Business and Professions Code.
  - 15 (4) A licensed clinical psychologist or psychological intern.
  - 16 (5) A licensed psychiatrist or psychiatric resident.
  - 17 (6) A licensed psychiatric mental health nurse practitioner.
  - 18 (7) A physician specialist in substance use disorder treatment.
  - 19 (8) An individual who holds a services credential with a  
20 specialization in pupil personnel services as described in Section  
21 44266 that authorizes the individual to perform school counseling,  
22 school psychology, or school social work.
  - 23 (9) An individual who holds a services credential with  
24 specialization in health for school nurse, as described in Section  
25 44267.5.
  - 26 (10) A licensed educational psychologist, as defined in Chapter  
27 13.5 (commencing with Section 4989.10) of Division 2 of the  
28 Business and Professions Code.
- 29 (c) (1) A behavioral health professional who meets the  
30 contracting and licensing requirements of subdivision (b) may  
31 supervise other trained county behavioral health professionals. For  
32 purposes of this subdivision, “other trained county behavior health  
33 professionals” means health professionals who are subject to  
34 supervision requirements under the Medicaid program when  
35 providing Medi-Cal reimbursable specialty mental health services  
36 and substance use disorder services, including clinical interns or  
37 trainees, certified peer specialists, and registered or certified  
38 substance use disorder counselors, participating in the partnership  
39 program.

1 (2) *All behavioral health professionals who participate in the*  
2 *partnership program shall have a valid, current satisfactory*  
3 *background check.*

4 49440.4. (a) The local educational agency shall provide  
5 school-based locations, including space at schools, appropriate for  
6 the delivery of behavioral health services.

7 (b) The county behavioral health agency and participating  
8 entities, as appropriate, shall collaborate with the local educational  
9 agency to establish hours of service at mutually agreed upon  
10 school-based locations or a process for ensuring timely  
11 interventions when needed, or both. Additional service delivery  
12 models that address local needs may be developed under the  
13 partnership program.

14 (c) The partnership program shall identify if mental health  
15 services or substance use disorder services, or both, will be  
16 delivered at the school-based location or through telehealth. If the  
17 partnership program determines that only mental health services  
18 or only substance use disorder services shall be provided at the  
19 school-based location, the partnership program shall develop a  
20 plan for each pupil who has been identified as needing behavioral  
21 health services that are not offered at the school-based location.  
22 The plan shall include appropriate referral for services not offered  
23 at the school-based location.

24 (d) Except as provided in subdivisions (b) and (c), the choice  
25 of timeframe and setting for the delivery of behavioral health  
26 services shall be made in consultation with the pupil and the pupil's  
27 parent or ~~guardian~~ guardian, and shall include consideration of  
28 the specified needs expressed by the pupil and the pupil's parent  
29 or guardian. Behavioral health services may be provided at  
30 locations that are not at the school-based location for purposes of  
31 accommodating the individual needs of a pupil.

32 (e) If necessary and appropriate, as determined in consultation  
33 with the parent or guardian of the pupil being served and in  
34 compliance with state and federal law protecting the pupil's right  
35 to privacy and parental rights, Medi-Cal covered behavioral health  
36 services may continue to be delivered at the school-based location  
37 beyond the delivery of brief initial interventions.

38 49440.5. The local educational agency, county behavioral  
39 health agency, and any participating entity shall jointly develop a

1 referral process to support school personnel in making appropriate  
2 referrals to the designated ~~county~~ behavioral health professional.  
3 49440.6. To ensure timely access to behavioral health  
4 interventions at the earliest onset of a behavioral health condition,  
5 the designated ~~county~~ behavioral health professional shall provide  
6 brief initial interventions when necessary for all referred pupils,  
7 including uninsured and privately insured pupils, in addition to  
8 Medi-Cal beneficiaries.

9 49440.7. (a) The array of behavioral health services provided  
10 pursuant to the partnership program shall be a subset of Medi-Cal  
11 covered mental health or substance use disorder services, and shall  
12 include prevention, ~~intervention~~ *intervention*, and, if necessary,  
13 intensive ~~intervention services~~ *services, within a multitiered system*  
14 *of support or other similar framework employed by the local*  
15 *educational agency.*

16 (b) At the discretion of the partnership program, services  
17 developed using funding from the Mental Health Services Act,  
18 enacted by Proposition 63 at the November 2, 2004, statewide  
19 general election, as amended, that are appropriate for a  
20 school-based setting may be provided under the partnership  
21 program. To use this funding, the partnership program shall meet  
22 all Mental Health Services Act requirements, including the  
23 community program planning process.

24 (c) Prevention services provided by the partnership program  
25 may include, but are not limited to, services that address the  
26 priorities described in paragraphs (1) to (4), inclusive, of  
27 subdivision (a) of Section 5840.7 of the Welfare and Institutions  
28 Code.

29 (d) Behavioral health interventions provided to pupils through  
30 the partnership program shall comply with all applicable state and  
31 federal laws protecting a pupil's right to privacy and parental rights,  
32 including Section 6924 and subdivision (b) of Section 6929 of the  
33 Family Code.

34 49440.8. (a) (1) The local educational agency and county  
35 behavioral health ~~agency~~ *agency* shall develop a process to collect  
36 information on the health insurance carrier for each pupil, with  
37 the permission of the pupil's parent or guardian, to allow the  
38 partnership to seek reimbursement for behavioral health services  
39 provided to the pupil, when applicable. The process shall include

1 informing any participating entity which pupils referred for services  
2 are privately insured.

3 (2) *The memorandum of understanding of the partnership*  
4 *program shall specify how a privately insured pupil will be served*  
5 *if the parent or guardian does not provide the necessary*  
6 *information on the health insurance carrier pursuant to paragraph*  
7 *(1).*

8 (b) (1) For privately insured pupils, the partnership program  
9 shall contact the private plan upon initiating the brief initial  
10 intervention services described in Sections 49440.6 and 49440.7  
11 to facilitate a referral to the private plan's network providers, as  
12 appropriate and consistent with professionally recognized standards  
13 of practice, and in consultation with the pupil and their parent or  
14 guardian, in compliance with all applicable state and federal laws  
15 protecting a pupil's right to privacy and parental rights.

16 (2) (A) After contacting the private plan pursuant to paragraph  
17 (1), if the private plan is unable to offer the pupil enrolled in the  
18 plan an appointment with a network provider within 48 hours for  
19 an urgent care appointment or within 15 business days for a  
20 nonurgent appointment, except as provided in subparagraph (B),  
21 the designated behavioral health professional shall continue and  
22 complete the brief initial intervention services.

23 (B) The applicable waiting time for a particular appointment  
24 may be extended if the referring or treating licensed behavioral  
25 health provider, or the health professional providing triage or  
26 screening services, as applicable, acting within the scope of the  
27 individual's practice and consistent with professionally recognized  
28 standards of practice, has determined and noted in the relevant  
29 record that a longer waiting time will not have a detrimental impact  
30 on the health of the enrollee.

31 (3) The private plan shall reimburse for brief initial intervention  
32 services provided by the designated behavioral health professional  
33 to pupils enrolled with the private plan at the amount a county  
34 behavioral health agency would receive for the same ~~service~~  
35 *services* provided to a Medi-Cal beneficiary.

36 (4) A private plan licensed pursuant to the Knox-Keene Health  
37 Care Service Plan Act of 1975 (Article 1 ~~commencing~~  
38 *commencing* with Section 1340) of Chapter 2.2 of Division 2 of  
39 the Health and Safety Code) shall meet requirements for the timely  
40 payment of claims established pursuant to Section 1371 of the

1 Health and Safety Code, and a private plan regulated pursuant to  
2 the Insurance Code shall meet the requirement for timely payment  
3 of claims established pursuant to Sections 10123.13 and 10123.147  
4 of the Insurance Code for a contracted provider. If the private plan  
5 disputes the services provided or the amount, the private plan may  
6 submit a dispute to the Department of Managed Health Care, but  
7 the private plan shall comply with requirements for timely payment,  
8 including for services or amounts in dispute. The Department of  
9 Managed Health Care shall have trained staff available to address  
10 any disputes arising from the partnership program.

11 (c) If *additional behavioral health services beyond the brief*  
12 *initial intervention services are necessary and appropriate*, as  
13 determined in consultation with the parent or guardian of the pupil  
14 being served and in compliance with all applicable state and federal  
15 laws protecting a pupil's right to privacy and parental rights, the  
16 following shall occur:

17 (1) If the private plan can meet timely access standards for care  
18 delivery, the designated behavioral health professional shall make  
19 a referral to the private plan provider.

20 (2) If the private plan cannot meet timely access standards for  
21 care delivery, the private plan and the county behavioral health  
22 agency shall negotiate a single case agreement to provide  
23 behavioral health services beyond the brief initial intervention  
24 services to determine reimbursement for additional services. If an  
25 agreement cannot be reached, the private plan shall report to the  
26 Department of Managed Health Care how it will ensure the pupil  
27 receives the necessary services in compliance with state and federal  
28 law, including the federal Paul Wellstone and Pete Domenici  
29 Mental Health Parity and Addiction Equity Act of 2008 (Public  
30 Law 110-343) and Senate Bill 855 (Chapter 151 of the Statutes of  
31 2020).

32 (d) Private plans, county behavioral health agencies, and  
33 participating entities are encouraged to contract to serve pupils  
34 who are receiving services from the partnership program.

35 49440.9. (a) A partnership program shall annually report to  
36 the State Department of Health Care Services and the Mental  
37 Health Services Oversight and Accountability Commission, all of  
38 the following:

39 (1) A brief description of the partnership program, including  
40 the service delivery model.

1 (2) The financial contribution made by the county behavioral  
2 health agency and local educational agency participating in the  
3 partnership program.

4 (3) The definition the partnership program uses to identify pupils  
5 “at risk of developing a serious behavioral health condition,”  
6 pursuant to Section 49440 and subdivision (a) of Section 49440.3.

7 (4) The number of school-based locations involved in the  
8 partnership program and the ~~percent of pupils that~~ *percentage of*  
9 *pupils who* are Medi-Cal beneficiaries at each school-based  
10 location.

11 (5) The number of pupils served in the last year including  
12 demographic data of the pupils’ race, ethnicity, gender, and  
13 language.

14 (6) The number of pupils who receive school-based services  
15 beyond the brief initial intervention described in Sections 49440.6  
16 and 49440.7.

17 (7) (A) For partnership programs that provide specialty mental  
18 health services, the number of pupils who participate in the  
19 program who report functional improvement, as measured by the  
20 Child and Adolescent Needs and Strengths (CANS) assessment  
21 tool or other evidence-based tools, broken down by those pupils  
22 who receive only the brief initial intervention described in Sections  
23 49440.6 and 49440.7 and those that receive additional school-based  
24 services.

25 (B) For partnership programs that provide specialty mental  
26 health services, only the relevant components of the CANS  
27 assessment tool, as determined by the treating designated  
28 behavioral health professional, shall be required to be completed  
29 for non-Medi-Cal beneficiaries who receive brief initial  
30 interventions.

31 (8) The percentage of pupils and parents or guardians that report  
32 satisfaction with the services provided through the partnership  
33 program.

34 (b) The Mental Health Services Oversight and Accountability  
35 Commission, in collaboration with the State Department of Health  
36 Care Services, shall provide a report to the Legislature on the  
37 Integrated School-Based Behavioral Health Partnership Program,  
38 based upon the metrics in this section, in compliance with Section  
39 9795 of the Government Code, every three years, beginning three

1 years after the establishment of a partnership program pursuant to  
 2 this article.

3 ~~49441. (a) The A partnership program may support, through~~  
 4 ~~collaboration and contracting for services, compliance with the~~  
 5 ~~local policies, responsibilities, and interventions that are required~~  
 6 ~~through individualized education programs described in Chapter~~  
 7 ~~4 (commencing with Section 56300) of Part 30, and shall establish~~  
 8 ~~a process that does all of the following: provide services to pupils~~  
 9 ~~with exceptional needs, including, but not limited to, services~~  
 10 ~~required by the pupil’s individualized education program. The~~  
 11 ~~partnership program shall clearly delineate responsibilities for~~  
 12 ~~any services provided to pupils with exceptional needs that are~~  
 13 ~~included in a pupil’s individualized education program, and shall~~  
 14 ~~provide services consistent with state and federal law related to~~  
 15 ~~pupils with exceptional needs, including, but not limited to, statutes~~  
 16 ~~enacted under Chapter 43 of the Statutes of 2011 and the federal~~  
 17 ~~Individuals with Disabilities Education Act (20 U.S.C. Sec 1400~~  
 18 ~~et seq.).~~

19 ~~(1) Includes guidance describing the collaborations between~~  
 20 ~~local educational agencies and county behavioral health agencies~~  
 21 ~~that can support compliance.~~

22 ~~(2) Distinguishes the local policies, responsibilities, and~~  
 23 ~~interventions that are required through individualized education~~  
 24 ~~programs and those relating to special education local plan areas.~~

25 ~~(3) Distinguishes through guidance and policies how pupils~~  
 26 ~~receive the services required by individualized education programs~~  
 27 ~~and special education local plan areas, as well as through the~~  
 28 ~~partnership program, when appropriate.~~

29 (b) (1) This article does not replace current county requirements  
 30 related to crisis intervention protocols and the partnership program  
 31 shall not provide crisis interventions. The county behavioral health  
 32 agency and local educational agency shall establish processes for  
 33 timely interventions that identify nonurgent, urgent, and  
 34 crisis-related circumstances. The process shall include guidelines  
 35 for when county crisis intervention is needed instead of timely  
 36 interventions related to urgent or nonurgent needs.

37 (2) The partnership program shall not create a siloed delivery  
 38 system. The partnership program shall establish a process to  
 39 leverage community-based services and other resources, and a

- 1 process to identify local resources related to crisis intervention
- 2 protocols and services.

O