

AMENDED IN ASSEMBLY JUNE 27, 2021

**SENATE BILL**

**No. 134**

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**Introduced by Committee on Budget and Fiscal Review**

January 8, 2021

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An act ~~relating to the Budget Act of 2021~~, to amend Sections 5847 and 5892 of the Welfare and Institutions Code, relating to mental health, and making an appropriation therefor, to take effect immediately, bill related to the budget.

LEGISLATIVE COUNSEL'S DIGEST

SB 134, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2021~~. *Mental Health Services Act: county program and expenditure plans.*

Existing law, the *Mental Health Services Act (MHSA)*, an initiative measure enacted by the voters as *Proposition 63* at the November 2, 2004, statewide general election, establishes the *Mental Health Services Fund (MHSF)*, a continuously appropriated fund, to fund various county mental health programs, including children's mental health care, adult and older adult mental health care, and prevention and early intervention programs. The *MHSA* established the *Mental Health Services Oversight and Accountability Commission* and requires the counties to prepare and submit a 3-year program and expenditure plan, and annual updates, as specified, to the commission and the department. Existing law authorizes a county that is unable to complete and submit a 3-year plan or annual update for the 2020–21 fiscal year due to the *COVID-19 Public Health Emergency* to extend the effective timeframe of its currently approved 3-year plan or annual update to include the 2020–21 fiscal year and requires the county to submit a 3-year program

and expenditure plan or annual update to the commission and the department by July 1, 2021.

This bill would additionally authorize a county that is unable to complete and submit a 3-year plan or annual update for the 2021–22 fiscal year due to the COVID-19 Public Health Emergency to extend the effective timeframe of its currently approved 3-year plan or annual update to include the 2021–22 fiscal year and would require the county to submit a 3-year program and expenditure plan or annual update to the commission and the department by July 1, 2022.

Existing law authorizes the State Department of Health Care Services to allow counties to determine the percentage of funds to allocate across programs for children and adults and older adults for the 2020–21 fiscal year by means of all-county letters or other similar instructions without taking further regulatory action.

This bill would extend that authorization to the 2021–22 fiscal year.

Existing law establishes the Federal Trust Fund within the State Treasury, which consists of money paid into it in trust from the United States.

This bill would make an appropriation by appropriating \$186,973,000 from the Federal Trust Fund to the State Department of Health Care Services to support community mental health services.

Existing law authorizes the MHPA to be amended by a  $\frac{2}{3}$  vote of each house of the Legislature if the amendments are consistent with, and further the intent of, the MHPA. Existing law authorizes the Legislature to add provisions to the act to clarify procedures and terms of the act by majority vote.

This bill would state the finding of the Legislature that the changes made are consistent with, and further the purposes of, the MHPA.

This bill would state that its provisions are severable.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2021.~~

Vote: ~~majority~~ $\frac{2}{3}$ . Appropriation: ~~no~~ yes. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

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

- 1 SECTION 1. Section 5847 of the Welfare and Institutions Code
- 2 is amended to read:

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

3 (a) Each county mental health program shall prepare and submit  
4 a three-year program and expenditure plan, and annual updates,  
5 adopted by the county board of supervisors, to the Mental Health  
6 Services Oversight and Accountability Commission and the State  
7 Department of Health Care Services within 30 days after adoption.

8 (b) The three-year program and expenditure plan shall be based  
9 on available unspent funds and estimated revenue allocations  
10 provided by the state and in accordance with established  
11 stakeholder engagement and planning requirements, as required  
12 in Section 5848. The three-year program and expenditure plan and  
13 annual updates shall include all of the following:

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

16 (2) A program for services to children in accordance with Part  
17 4 (commencing with Section 5850), to include a program pursuant  
18 to Chapter 4 (commencing with Section 18250) of Part 6 of  
19 Division 9 or provide substantial evidence that it is not feasible to  
20 establish a wraparound program in that county.

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

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

25 (5) A program for technological needs and capital facilities  
26 needed to provide services pursuant to Part 3 (commencing with  
27 Section 5800), Part 3.6 (commencing with Section 5840), and Part  
28 4 (commencing with Section 5850). All plans for proposed facilities  
29 with restrictive settings shall demonstrate that the needs of the  
30 people to be served cannot be met in a less restrictive or more  
31 integrated setting, such as permanent supportive housing.

32 (6) Identification of shortages in personnel to provide services  
33 pursuant to the above programs and the additional assistance  
34 needed from the education and training programs established  
35 pursuant to Part 3.1 (commencing with Section 5820).

36 (7) Establishment and maintenance of a prudent reserve to  
37 ensure the county program will continue to be able to serve  
38 children, adults, and seniors that it is currently serving pursuant  
39 to Part 3 (commencing with Section 5800), the Adult and Older  
40 Adult Mental Health System of Care Act, Part 3.6 (commencing

1 with Section 5840), Prevention and Early Intervention Programs,  
2 and Part 4 (commencing with Section 5850), the Children’s Mental  
3 Health Services Act, during years in which revenues for the Mental  
4 Health Services Fund are below recent averages adjusted by  
5 changes in the state population and the California Consumer Price  
6 Index.

7 (8) Certification by the county behavioral health director, which  
8 ensures that the county has complied with all pertinent regulations,  
9 laws, and statutes of the Mental Health Services Act, including  
10 stakeholder participation and nonsupplantation requirements.

11 (9) Certification by the county behavioral health director and  
12 by the county auditor-controller that the county has complied with  
13 any fiscal accountability requirements as directed by the State  
14 Department of Health Care Services, and that all expenditures are  
15 consistent with the requirements of the Mental Health Services  
16 Act.

17 (c) The programs established pursuant to paragraphs (2) and  
18 (3) of subdivision (b) shall include services to address the needs  
19 of transition age youth 16 to 25 years of age. In implementing this  
20 subdivision, county mental health programs shall consider the  
21 needs of transition age foster youth.

22 (d) Each year, the State Department of Health Care Services  
23 shall inform the County Behavioral Health Directors Association  
24 of California and the Mental Health Services Oversight and  
25 Accountability Commission of the methodology used for revenue  
26 allocation to the counties.

27 (e) Each county mental health program shall prepare expenditure  
28 plans pursuant to Part 3 (commencing with Section 5800) for adults  
29 and seniors, Part 3.2 (commencing with Section 5830) for  
30 innovative programs, Part 3.6 (commencing with Section 5840)  
31 for prevention and early intervention programs, and Part 4  
32 (commencing with Section 5850) for services for children, and  
33 updates to the plans developed pursuant to this section. Each  
34 expenditure update shall indicate the number of children, adults,  
35 and seniors to be served pursuant to Part 3 (commencing with  
36 Section 5800), and Part 4 (commencing with Section 5850), and  
37 the cost per person. The expenditure update shall include utilization  
38 of unspent funds allocated in the previous year and the proposed  
39 expenditure for the same purpose.

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

8 (g) The department shall post on its internet website the  
9 three-year program and expenditure plans submitted by every  
10 county pursuant to subdivision (a) in a timely manner.

11 (h) (1) Notwithstanding subdivision (a), a county that is unable  
12 to complete and submit a three-year *program and expenditure* plan  
13 or annual update for the 2020–21 *or 2021–22* fiscal ~~year~~ *years* due  
14 to the COVID-19 Public Health Emergency may extend the  
15 effective timeframe of its currently approved three-year plan or  
16 annual update to include the 2020–21 *and 2021–22* fiscal ~~year~~ *A*  
17 *years*. *The* county shall submit a three-year program and  
18 expenditure plan or annual update to the Mental Health Services  
19 Oversight and Accountability Commission and the State  
20 Department of Health Care Services by July 1, ~~2021~~ *2022*.

21 (2) For purposes of this subdivision, “COVID-19 Public Health  
22 Emergency” means the federal Public Health Emergency  
23 declaration made pursuant to Section 247d of Title 42 of the United  
24 States Code on January 30, 2020, entitled “Determination that a  
25 Public Health Emergency Exists Nationwide as the Result of the  
26 2019 Novel Coronavirus,” and any renewal of that declaration.

27 (i) Notwithstanding paragraph (7) of subdivision (b) and  
28 subdivision (f), a county may, during the 2020–21 *and 2021–22*  
29 fiscal ~~year~~ *years*, use funds from its prudent reserve for prevention  
30 and early intervention programs created in accordance with Part  
31 3.6 (commencing with Section 5840) and for services to persons  
32 with severe mental illnesses pursuant to Part 4 (commencing with  
33 Section 5850) for the children’s system of care and Part 3  
34 (commencing with Section 5800) for the adult and older adult  
35 system of care. These services may include housing assistance, as  
36 defined in Section 5892.5, to the target population specified in  
37 Section 5600.3.

38 (j) Notwithstanding Chapter 3.5 (commencing with Section  
39 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
40 the department, without taking any further regulatory action, may

1 implement, interpret, or make specific subdivisions (h) and (i) of  
2 this section and subdivision (i) of Section 5892 by means of  
3 all-county letters or other similar instructions.

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

6 5892. (a) In order to promote efficient implementation of this  
7 act, the county shall use funds distributed from the Mental Health  
8 Services Fund as follows:

9 (1) In the 2005–06, 2006–07, and 2007–08 fiscal years, 10  
10 percent shall be placed in a trust fund to be expended for education  
11 and training programs pursuant to Part 3.1 (commencing with  
12 Section 5820).

13 (2) In the 2005–06, 2006–07, and 2007–08 fiscal years, 10  
14 percent for capital facilities and technological needs shall be  
15 distributed to counties in accordance with a formula developed in  
16 consultation with the County Behavioral Health Directors  
17 Association of California to implement plans developed pursuant  
18 to Section 5847.

19 (3) Twenty percent of funds distributed to the counties pursuant  
20 to subdivision (c) of Section 5891 shall be used for prevention and  
21 early intervention programs in accordance with Part 3.6  
22 (commencing with Section 5840).

23 (4) The expenditure for prevention and early intervention may  
24 be increased in any county in which the department determines  
25 that the increase will decrease the need and cost for additional  
26 services to persons with severe mental illness in that county by an  
27 amount at least commensurate with the proposed increase.

28 (5) The balance of funds shall be distributed to county mental  
29 health programs for services to persons with severe mental illnesses  
30 pursuant to Part 4 (commencing with Section 5850) for the  
31 children’s system of care and Part 3 (commencing with Section  
32 5800) for the adult and older adult system of care. These services  
33 may include housing assistance, as defined in Section 5892.5, to  
34 the target population specified in Section 5600.3.

35 (6) Five percent of the total funding for each county mental  
36 health program for Part 3 (commencing with Section 5800), Part  
37 3.6 (commencing with Section 5840), and Part 4 (commencing  
38 with Section 5850), shall be utilized for innovative programs in  
39 accordance with Sections 5830, 5847, and 5848.

1 (b) (1) In any fiscal year after the 2007–08 fiscal year, programs  
2 for services pursuant to Part 3 (commencing with Section 5800)  
3 and Part 4 (commencing with Section 5850) may include funds  
4 for technological needs and capital facilities, human resource  
5 needs, and a prudent reserve to ensure services do not have to be  
6 significantly reduced in years in which revenues are below the  
7 average of previous years. The total allocation for purposes  
8 authorized by this subdivision shall not exceed 20 percent of the  
9 average amount of funds allocated to that county for the previous  
10 five fiscal years pursuant to this section.

11 (2) A county shall calculate an amount it establishes as the  
12 prudent reserve for its Local Mental Health Services Fund, not to  
13 exceed 33 percent of the average community services and support  
14 revenue received for the fund in the preceding five years. The  
15 county shall reassess the maximum amount of this reserve every  
16 five years and certify the reassessment as part of the three-year  
17 program and expenditure plan required pursuant to Section 5847.

18 (3) Notwithstanding Chapter 3.5 (commencing with Section  
19 11340) of Part 1 of Division 3 of Title 2 of the Government Code,  
20 the State Department of Health Care Services may allow counties  
21 to determine the percentage of funds to allocate across programs  
22 created pursuant to Part 4 (commencing with Section 5850) for  
23 the children’s system of care and Part 3 (commencing with Section  
24 5800) for the adult and older adult system of care for the 2020–21  
25 *and 2021–22 fiscal-year years* by means of all-county letters or  
26 other similar instructions without taking further regulatory action.

27 (c) The allocations pursuant to subdivisions (a) and (b) shall  
28 include funding for annual planning costs pursuant to Section 5848.  
29 The total of these costs shall not exceed 5 percent of the total of  
30 annual revenues received for the fund. The planning costs shall  
31 include funds for county mental health programs to pay for the  
32 costs of consumers, family members, and other stakeholders to  
33 participate in the planning process and for the planning and  
34 implementation required for private provider contracts to be  
35 significantly expanded to provide additional services pursuant to  
36 Part 3 (commencing with Section 5800) and Part 4 (commencing  
37 with Section 5850).

38 (d) Prior to making the allocations pursuant to subdivisions (a),  
39 (b), and (c), funds shall be reserved for the costs for the State  
40 Department of Health Care Services, the California Behavioral

1 Health Planning Council, the Office of Statewide Health Planning  
2 and Development, the Mental Health Services Oversight and  
3 Accountability Commission, the State Department of Public Health,  
4 and any other state agency to implement all duties pursuant to the  
5 programs set forth in this section. These costs shall not exceed 5  
6 percent of the total of annual revenues received for the fund. The  
7 administrative costs shall include funds to assist consumers and  
8 family members to ensure the appropriate state and county agencies  
9 give full consideration to concerns about quality, structure of  
10 service delivery, or access to services. The amounts allocated for  
11 administration shall include amounts sufficient to ensure adequate  
12 research and evaluation regarding the effectiveness of services  
13 being provided and achievement of the outcome measures set forth  
14 in Part 3 (commencing with Section 5800), Part 3.6 (commencing  
15 with Section 5840), and Part 4 (commencing with Section 5850).  
16 The amount of funds available for the purposes of this subdivision  
17 in any fiscal year is subject to appropriation in the annual Budget  
18 Act.

19 (e) In the 2004–05 fiscal year, funds shall be allocated as  
20 follows:

21 (1) Forty-five percent for education and training pursuant to  
22 Part 3.1 (commencing with Section 5820).

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

25 (3) Five percent for local planning in the manner specified in  
26 subdivision (c).

27 (4) Five percent for state implementation in the manner specified  
28 in subdivision (d).

29 (f) Each county shall place all funds received from the State  
30 Mental Health Services Fund in a local Mental Health Services  
31 Fund. The Local Mental Health Services Fund balance shall be  
32 invested consistent with other county funds and the interest earned  
33 on the investments shall be transferred into the fund. The earnings  
34 on investment of these funds shall be available for distribution  
35 from the fund in future fiscal years.

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

39 (h) (1) Other than funds placed in a reserve in accordance with  
40 an approved plan, any funds allocated to a county that have not

1 been spent for their authorized purpose within three years, and the  
2 interest accruing on those funds, shall revert to the state to be  
3 deposited into the Reversion Account, hereby established in the  
4 fund, and available for other counties in future years, provided,  
5 however, that funds, including interest accrued on those funds, for  
6 capital facilities, technological needs, or education and training  
7 may be retained for up to 10 years before reverting to the Reversion  
8 Account.

9 (2) (A) If a county receives approval from the Mental Health  
10 Services Oversight and Accountability Commission of a plan for  
11 innovative programs, pursuant to subdivision (e) of Section 5830,  
12 the county's funds identified in that plan for innovative programs  
13 shall not revert to the state pursuant to paragraph (1) so long as  
14 they are encumbered under the terms of the approved project plan,  
15 including any subsequent amendments approved by the  
16 commission, or until three years after the date of approval,  
17 whichever is later.

18 (B) Subparagraph (A) applies to all plans for innovative  
19 programs that have received commission approval and are in the  
20 process at the time of enactment of the act that added this  
21 subparagraph, and to all plans that receive commission approval  
22 thereafter.

23 (3) Notwithstanding paragraph (1), funds allocated to a county  
24 with a population of less than 200,000 that have not been spent  
25 for their authorized purpose within five years shall revert to the  
26 state as described in paragraph (1).

27 (4) (A) Notwithstanding paragraphs (1) and (2), if a county  
28 with a population of less than 200,000 receives approval from the  
29 Mental Health Services Oversight and Accountability Commission  
30 of a plan for innovative programs, pursuant to subdivision (e) of  
31 Section 5830, the county's funds identified in that plan for  
32 innovative programs shall not revert to the state pursuant to  
33 paragraph (1) so long as they are encumbered under the terms of  
34 the approved project plan, including any subsequent amendments  
35 approved by the commission, or until five years after the date of  
36 approval, whichever is later.

37 (B) Subparagraph (A) applies to all plans for innovative  
38 programs that have received commission approval and are in the  
39 process at the time of enactment of the act that added this

1 subparagraph, and to all plans that receive commission approval  
2 thereafter.

3 (i) Notwithstanding subdivision (h) and Section 5892.1, unspent  
4 funds allocated to a county, and interest accruing on those funds,  
5 which are subject to reversion as of July 1, 2019, and July 1, 2020,  
6 shall be subject to reversion on July 1, 2021.

7 (j) If there are revenues available in the fund after the Mental  
8 Health Services Oversight and Accountability Commission has  
9 determined there are prudent reserves and no unmet needs for any  
10 of the programs funded pursuant to this section, including all  
11 purposes of the Prevention and Early Intervention Program, the  
12 commission shall develop a plan for expenditures of these revenues  
13 to further the purposes of this act and the Legislature may  
14 appropriate these funds for any purpose consistent with the  
15 commission's adopted plan that furthers the purposes of this act.

16 *SEC. 3. The provisions of this measure are severable. If any*  
17 *provision of this measure or its application is held invalid, that*  
18 *invalidity shall not affect other provisions or applications that can*  
19 *be given effect without the invalid provision or application.*

20 *SEC. 4. There is hereby appropriated, for the 2021–22 fiscal*  
21 *year, one hundred eighty-six million nine hundred seventy-three*  
22 *thousand dollars (\$186,973,000) from the Federal Trust Fund to*  
23 *the State Department of Health Care Services to support*  
24 *community mental health services.*

25 *SEC. 5. The Legislature hereby finds and declares that the*  
26 *amendments made by this measure to Sections 5847 and 5892 of*  
27 *the Welfare and Institutions Code are consistent with and further*  
28 *the intent of the Mental Health Services Act.*

29 *SEC. 6. This act is a bill providing for appropriations related*  
30 *to the Budget Bill within the meaning of subdivision (e) of Section*  
31 *12 of Article IV of the California Constitution, has been identified*  
32 *as related to the budget in the Budget Bill, and shall take effect*  
33 *immediately.*

34 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~  
35 ~~changes relating to the Budget Act of 2021.~~