

## MEMORANDUM

<b>DATE</b>	May 5, 2017
<b>TO</b>	Policy and Advocacy Committee
<b>FROM</b>	 Cherise Burns Central Services Manager
<b>SUBJECT</b>	Agenda Item #6(c)(15) – AB 488 (Kiley) Mental Health Services Act

**Background:**

This bill would establish the Mental Health Services Fund Transparency and Accountability Office (Office) within the California Health and Human Services Agency. The bill would also transfer various functions and authority from the Department of Health Care Services to the Office, including all the duties, powers, responsibilities, and jurisdiction, vested in DHCS, regarding oversight of the Mental Health Services Fund. Lastly, this bill would require the Office to initiate investigations, advise counties, conduct research, and report to the Legislature on any additional authority it deems necessary to complete its duties to ensure county compliance with the Mental Health Services Act.

Staff spoke to the author's office and was informed that this bill is a 2-year bill and will not be moving for the remainder of this legislative year. Staff will continue to watch the bill until it is taken up next year.

**Location:** Assembly Committee on Health

**Status:** 2/27/2017 Referred to Assembly Committee on Health

**Action Requested:**

No action is required at this time. Staff will continue to watch AB 488 (Kiley) for potential improvements to the oversight of the Mental Health Services Fund and programs funded by the Mental Health Services Fund.

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*(a) Proposition 63 (2004) is an important initiative to improve the lives and health of Californians by reducing the adverse impacts from untreated serious mental illness.*

*(b) Left untreated, mental illness may result in prolonged suffering and is the leading cause of suicide and disability. Without intervention, those suffering from untreated mental illness may be incarcerated, drop out of school, or become unemployed or homeless.*

*(c) Since 2004, the Mental Health Services Act has generated \$14.6 billion and now comprises almost one-quarter of the state's mental health care budget.*

*(d) Currently, over 2.2 million Californians have a mental health need, and just over one-half of those with these needs reported that they did not receive any treatment from a primary care doctor or a mental health professional.*

*(e) Since 2013, and as recently as September 2016, the California State Auditor's Office and the Little Hoover Commission, respectively, have reported a continued failure to keep promises made to voters in 2004 with the passage of Proposition 63, the Mental Health Services Act, largely due to an ineffective governance system that has no oversight or accountability structure.*

*(f) The State Department of Health Care Services has been slow to publicly post county plans and reports of fiscal transparency. Currently, no state agency reviews, analyzes, or summarizes information supplied by local governments to ensure compliance with the Mental Health Services Act.*

**SEC. 2.** Section 5813.5 of the Welfare and Institutions Code is amended to read:

**5813.5.** Subject to the availability of funds from the Mental Health Services Fund, the state shall distribute funds for the provision of services under Sections 5801, 5802, and 5806 to county mental health programs. Services shall be available to adults and seniors with severe illnesses who meet the eligibility criteria in subdivisions (b) and (c) of Section 5600.3. For purposes of this act, seniors means older adult persons identified in Part 3 (commencing with Section 5800) of this division.

(a) Funding shall be provided at sufficient levels to ensure that counties can provide each adult and senior served pursuant to this part with the medically necessary mental health services, medications, and supportive services set forth in the applicable treatment plan.

(b) The funding shall only cover the portions of those costs of services that cannot be paid for with other funds including other mental health funds, public and private insurance, and other local, state, and federal funds.

(c) Each county mental health program's plan shall provide for services in accordance with the system of care for adults and seniors who meet the eligibility criteria in subdivisions (b) and (c) of Section 5600.3.

(d) Planning for services shall be consistent with the philosophy, principles, and practices of the Recovery Vision for mental health consumers:

(1) To promote concepts key to the recovery for individuals who have mental illness: hope, personal empowerment, respect, social connections, self-responsibility, and self-determination.

(2) To promote consumer-operated services as a way to support recovery.

(3) To reflect the cultural, ethnic, and racial diversity of mental health consumers.

(4) To plan for each consumer's individual needs.

(e) The plan for each county mental health program shall indicate, subject to the availability of funds as determined by Part 4.5 (commencing with Section 5890) of this division, and other funds available for mental health services, adults and seniors with a severe mental illness being served by this program are either receiving services from this program or have a mental illness that is not sufficiently severe to require the level of services required of this program.

(f) Each county plan and annual update pursuant to Section 5847 shall consider ways to provide services similar to those established pursuant to the Mentally Ill Offender Crime Reduction Grant Program. Funds shall not be used to pay for persons incarcerated in state prison or parolees from state prisons. When included in county plans pursuant to Section 5847, funds may be used for the provision of mental health services under Sections 5347 and 5348 in counties that elect to participate in the Assisted Outpatient Treatment Demonstration Project Act of 2002 (Article 9 (commencing with Section 5345) of Chapter 2 of Part 1).

(g) The ~~department~~ *Mental Health Services Fund Transparency and Accountability Office* shall contract for services with county mental health programs pursuant to Section 5897. After the effective date of this section, the term grants referred to in Sections 5814 and 5814.5 shall refer to such contracts.

**SEC. 3.** Section 5821 of the Welfare and Institutions Code is amended to read:

**5821.** (a) The California Mental Health Planning Council shall advise the Office of Statewide Health Planning and Development on education and training policy development and provide oversight for education and training plan development.

(b) The Office of Statewide Health Planning and Development shall work with the California Mental Health Planning Council and the ~~State Department of Health Care Services~~ *Mental Health Services Fund Transparency and Accountability Office* so that council staff is increased appropriately to fulfill its duties required by Sections 5820 and 5821.

**SEC. 4.** Section 5840 of the Welfare and Institutions Code is amended to read:

**5840.** (a) The ~~State Department of Health Care Services~~, *Mental Health Services Fund Transparency and Accountability Office*, in coordination with counties, shall establish a program designed to prevent mental illnesses from becoming severe and disabling. The program shall emphasize improving timely access to services for underserved populations.

(b) The program shall include the following components:

(1) Outreach to families, employers, primary care health care providers, and others to recognize the early signs of potentially severe and disabling mental illnesses.

(2) Access and linkage to medically necessary care provided by county mental health programs for children with severe mental illness, as defined in Section 5600.3, and for adults and seniors with severe mental illness, as defined in Section 5600.3, as early in the onset of these conditions as practicable.

(3) Reduction in stigma associated with either being diagnosed with a mental illness or seeking mental health services.

(4) Reduction in discrimination against people with mental illness.

(c) The program shall include mental health services similar to those provided under other programs effective in preventing mental illnesses from becoming severe, and shall also include components similar to programs that have been successful in reducing the duration of untreated severe mental illnesses and assisting people in quickly regaining productive lives.

(d) The program shall emphasize strategies to reduce the following negative outcomes that may result from untreated mental illness:

(1) Suicide.

(2) Incarcerations.

(3) School failure or dropout.

(4) Unemployment.

(5) Prolonged suffering.

(6) Homelessness.

(7) Removal of children from their homes.

(e) Prevention and early intervention funds may be used to broaden the provision of community-based mental health services by adding prevention and early intervention services or activities to these services.

(f) In consultation with mental health stakeholders, and consistent with regulations from the Mental Health Services Oversight and Accountability Commission, pursuant to Section 5846, the ~~department~~ *Mental Health Services Fund Transparency and Accountability Office* shall revise the program elements in Section 5840 applicable to all county mental health programs in future years to reflect what is learned about the most effective prevention and intervention programs for children, adults, and seniors.

**SEC. 5.** Section 5840.2 of the Welfare and Institutions Code is amended to read:

**5840.2.** The ~~department~~ *Mental Health Services Fund Transparency and Accountability Office* shall contract for the provision of services pursuant to this part with each county mental health program in the manner set forth in Section 5897.

**SEC. 6.** *Section 5841 is added to the Welfare and Institutions Code, immediately preceding Section 5845, to read:*

**5841.** *(a) The Mental Health Services Fund Transparency and Accountability Office is hereby established within the California Health and Human Services Agency.*

*(b) The office is under the control of an executive officer, known as the Director of the Mental Health Services Fund Transparency and Accountability Office, who shall be appointed by the Governor, subject to confirmation by the Senate, and hold office at the pleasure of the Governor.*

*(c) The office shall succeed to, and be vested with, all the duties, powers, responsibilities, and jurisdiction, vested in the State Department of Health Care Services, regarding oversight of the Mental Health Services Fund. All existing positions within the State Department of Health Care Services concerning those duties, powers, responsibilities, and jurisdiction shall be transferred to the office. The director shall have authority to hire persons for those positions.*

*(d) In addition to any duties set forth pursuant to subdivision (c), the office shall assume the following duties:*

*(1) Oversee the allocation of funds from the Mental Health Services Fund.*

*(2) Initiate investigations, at its own discretion or upon request, concerning potential county noncompliance with the Mental Health Services Act (MHSA) or concerning other critical issues related to the performance of a county mental health program.*

*(3) Ensure that public transparency is provided for the Mental Health Services Fund, that funding is allocated to those with mental health needs, that the public's safety is protected, and that the required data to track performance outcomes are reported to the public in a practical and usable manner.*

*(4) Perform outreach to counties, advise counties, and conduct research, relating to the Mental Health Services Fund.*

*(5) (A) By December 31, 2019, report to the Legislature of any additional authority the office deems necessary to complete its designated duties and to ensure county compliance with the MHSA, including, but not limited to, broader authority to sanction, to withhold MHSA funds, or to assess a fine for misreported data or data reported late.*

*(B) This paragraph does not grant the office the authority to create new types of penalties. It is the intent of the Legislature that, based on the findings and reporting by the office, future legislation be enacted to impose automatic, nondiscretionary penalties, to be gradually applied to noncompliant counties, beginning with minor penalties, and increasing in severity as noncompliance is continued after collaboration and technical assistance have been offered.*

*(C) A report to the Legislature pursuant to this paragraph shall be submitted in compliance with Section 9795 of the Government Code.*

**SEC. 7.** *The heading of Part 3.7 (commencing with Section 5845) of Division 5 of the Welfare and Institutions Code is amended to read:*

**PART 3.7. TRANSPARENCY, OVERSIGHT, AND ACCOUNTABILITY**

**SEC. 8.** Section 5845 of the Welfare and Institutions Code is amended to read:

**5845.** (a) The Mental Health Services Oversight and Accountability Commission is hereby established to oversee Part 3 (commencing with Section 5800), the Adult and Older Adult Mental Health System of Care Act; Part 3.1 (commencing with Section 5820), Human Resources, Education, and Training Programs; Part 3.2 (commencing with Section 5830), Innovative Programs; Part 3.6 (commencing with Section 5840), Prevention and Early Intervention Programs; and Part 4 (commencing with Section 5850), the Children's Mental Health Services Act. The commission shall replace the advisory committee established pursuant to Section 5814. The commission shall consist of 16 voting members as follows:

- (1) The Attorney General or his or her designee.
- (2) The Superintendent of Public Instruction or his or her designee.
- (3) The Chairperson of the Senate Health and Human Services Committee or another member of the Senate selected by the President pro Tempore of the Senate.
- (4) The Chairperson of the Assembly Health Committee or another member of the Assembly selected by the Speaker of the Assembly.
- (5) Two persons with a severe mental illness, a family member of an adult or senior with a severe mental illness, a family member of a child who has or has had a severe mental illness, a physician specializing in alcohol and drug treatment, a mental health professional, a county sheriff, a superintendent of a school district, a representative of a labor organization, a representative of an employer with less than 500 employees and a representative of an employer with more than 500 employees, and a representative of a health care services plan or insurer, all appointed by the Governor. In making appointments, the Governor shall seek individuals who have had personal or family experience with mental illness. At least one of the persons appointed pursuant to this paragraph shall have a background in auditing.
- (b) Members shall serve without compensation, but shall be reimbursed for all actual and necessary expenses incurred in the performance of their duties.
- (c) The term of each member shall be three years, to be staggered so that approximately one-third of the appointments expire in each year.
- (d) In carrying out its duties and responsibilities, the commission may do all of the following:
  - (1) Meet at least once each quarter at any time and location convenient to the public as it may deem appropriate. All meetings of the commission shall be open to the public.
  - (2) Within the limit of funds allocated for these purposes, pursuant to the laws and regulations governing state civil service, employ staff, including any clerical, legal, and technical assistance as may appear necessary. The commission shall administer its operations separate and apart from the ~~State Department of Health Care Services and- Mental Health Services Fund Transparency and Accountability Office~~ and the California Health and Human Services Agency.
  - (3) Establish technical advisory committees such as a committee of consumers and family members.
  - (4) Employ all other appropriate strategies necessary or convenient to enable it to fully and adequately perform its duties and exercise the powers expressly granted, notwithstanding any authority expressly granted to any officer or employee of state government.
  - (5) Enter into contracts.
  - (6) Obtain data and information from the ~~State Department of Health Care Services-~~ *Mental Health Services Fund Transparency and Accountability Office*, the Office of Statewide Health Planning and Development, or other state or local entities that receive Mental Health Services Act funds, for the commission to utilize in its oversight, review, training and technical assistance, accountability, and evaluation capacity regarding projects and programs supported with Mental Health Services Act funds.
  - (7) Participate in the joint state-county decisionmaking process, as contained in Section 4061, for training,

technical assistance, and regulatory resources to meet the mission and goals of the state's mental health system.

(8) Develop strategies to overcome stigma and discrimination, and accomplish all other objectives of Part 3.2 (commencing with Section 5830), 3.6 (commencing with Section 5840), and the other provisions of the act establishing this commission.

(9) At any time, advise the Governor or the Legislature regarding actions the state may take to improve care and services for people with mental illness.

(10) If the commission identifies a critical issue related to the performance of a county mental health program, it may refer the issue to the *Mental Health Services Fund Transparency and Accountability Office pursuant to Section 5655. For purposes of this paragraph, the office shall succeed to, and be vested with, all the duties, powers, responsibilities, and jurisdiction that are described in Section 5655 and vested in the State Department of Health Care Services pursuant to Section 5655. Services.*

(11) Assist in providing technical assistance to accomplish the purposes of the Mental Health Services Act, Part 3 (commencing with Section 5800), and Part 4 (commencing with Section 5850) in collaboration with the ~~State Department of Health Care Services and~~ *Mental Health Services Fund Transparency and Accountability Office* and in consultation with the California Mental Health Directors Association.

(12) Work in collaboration with the ~~State Department of Health Care Services and~~ *Mental Health Services Fund Transparency and Accountability Office* and the California Mental Health Planning Council, and in consultation with the California Mental Health Directors Association, in designing a comprehensive joint plan for a coordinated evaluation of client outcomes in the community-based mental health system, including, but not limited to, parts listed in subdivision (a). The California Health and Human Services Agency shall lead this comprehensive joint plan effort.

**SEC. 9.** Section 5846 of the Welfare and Institutions Code is amended to read:

**5846.** (a) The commission shall adopt regulations for programs and expenditures pursuant to Part 3.2 (commencing with Section 5830), for innovative programs, and Part 3.6 (commencing with Section 5840), for prevention and early intervention.

(b) Any regulations adopted by the ~~department~~ *Mental Health Services Fund Transparency and Accountability Office* pursuant to Section 5898 shall be consistent with the commission's regulations.

(c) The commission may provide technical assistance to any county mental health plan as needed to address concerns or recommendations of the commission or when local programs could benefit from technical assistance for improvement of their plans.

(d) The commission shall ensure that the perspective and participation of diverse community members reflective of California populations and others suffering from severe mental illness and their family members is a significant factor in all of its decisions and recommendations.

**SEC. 10.** Section 5847 of the Welfare and Institutions Code is amended to read:

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

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

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

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

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

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



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

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

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

(7) Establishment and maintenance of a prudent reserve to ensure the county program will continue to be able to serve children, adults, and seniors that it is currently serving pursuant to Part 3 (commencing with Section 5800), the Adult and Older Adult Mental Health System of Care Act, Part 3.6 (commencing with Section 5840), Prevention and Early Intervention Programs, and Part 4 (commencing with Section 5850), the Children's Mental Health Services Act, during years in which revenues for the Mental Health Services Fund are below recent averages adjusted by changes in the state population and the California Consumer Price Index.

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

(9) Certification by the county behavioral health director and by the county auditor-controller that the county has complied with any fiscal accountability requirements as directed by the ~~State Department of Health Care Services,~~ ~~and~~ *Mental Health Services Fund Transparency and Accountability Office*, and that all expenditures are consistent with the requirements of the Mental Health Services Act.

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

(d) Each year, the ~~State Department of Health Care Services~~ *Mental Health Services Fund Transparency and Accountability Office* shall inform the County Behavioral Health Directors Association of California and the Mental Health Services Oversight and Accountability Commission of the methodology used for revenue allocation to the counties.

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

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

(g) The ~~department~~ *Mental Health Services Fund Transparency and Accountability Office* shall post on its ~~website~~ *Internet Web site* the three-year program and expenditure plans submitted by every county pursuant to subdivision (a) in a timely manner.

**SEC. 11.** Section 5848 of the Welfare and Institutions Code is amended to read:

**5848.** (a) Each three-year program and expenditure plan and update shall be developed with local stakeholders, including adults and seniors with severe mental illness, families of children, adults, and seniors with severe mental illness, providers of services, law enforcement agencies, education, social services agencies, veterans, representatives from veterans organizations, providers of alcohol and drug services, health care organizations, and other important interests. Counties shall demonstrate a partnership with constituents and stakeholders throughout the process that includes meaningful stakeholder involvement on mental health policy, program planning, and implementation, monitoring, quality improvement, evaluation, and budget allocations. A draft plan

and update shall be prepared and circulated for review and comment for at least 30 days to representatives of stakeholder interests and any interested party who has requested a copy of the draft plans.

(b) The mental health board established pursuant to Section 5604 shall conduct a public hearing on the draft three-year program and expenditure plan and annual updates at the close of the 30-day comment period required by subdivision (a). Each adopted three-year program and expenditure plan and update shall include any substantive written recommendations for revisions. The adopted three-year program and expenditure plan or update shall summarize and analyze the recommended revisions. The mental health board shall review the adopted plan or update and make recommendations to the county mental health department for revisions.

(c) The plans shall include reports on the achievement of performance outcomes for services pursuant to Part 3 (commencing with Section 5800), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850) funded by the Mental Health Services Fund and established jointly by the ~~State Department of Health Care Services and~~ *Mental Health Services Fund Transparency and Accountability Office* and the Mental Health Services Oversight and Accountability Commission, in collaboration with the County Behavioral Health Directors Association of California.

(d) Mental health services provided pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) shall be included in the review of program performance by the California Mental Health Planning Council required by paragraph (2) of subdivision (c) of Section 5772 and in the local mental health board's review and comment on the performance outcome data required by paragraph (7) of subdivision (a) of Section 5604.2.

(e) The ~~department-~~ *Mental Health Services Fund Transparency and Accountability Office* shall annually post on its ~~website-~~ *Internet Web site* a summary of the performance outcomes reports submitted by counties if clearly and separately identified by counties as the achievement of performance outcomes pursuant to subdivision (c).

**SEC. 12.** Section 5878.3 of the Welfare and Institutions Code is amended to read:

**5878.3.** (a) Subject to the availability of funds as determined pursuant to Part 4.5 (commencing with Section 5890) of this division, county mental health programs shall offer services to severely mentally ill children for whom services under any other public or private insurance or other mental health or entitlement program is inadequate or unavailable. Other entitlement programs include but are not limited to mental health services available pursuant to Medi-Cal, child welfare, and special education programs. The funding shall cover only those portions of care that cannot be paid for with public or private insurance, other mental health funds or other entitlement programs.

(b) Funding shall be at sufficient levels to ensure that counties can provide each child served all of the necessary services set forth in the applicable treatment plan developed in accordance with this part, including services where appropriate and necessary to prevent an out of home placement, such as services pursuant to Chapter 4 (commencing with Section 18250) of Part 6 of Division 9.

(c) The ~~State Department of Health Care Services-~~ *Mental Health Services Fund Transparency and Accountability Office* shall contract with county mental health programs for the provision of services under this article in the manner set forth in Section 5897.

**SEC. 13.** Section 5890 of the Welfare and Institutions Code is amended to read:

**5890.** (a) The Mental Health Services Fund is hereby created in the State Treasury. The fund shall be administered by the state. Notwithstanding Section 13340 of the Government Code, all moneys in the fund are, except as provided in subdivision (d) of Section 5892, continuously appropriated, without regard to fiscal years, for the purpose of funding the following programs and other related activities as designated by other provisions of this division:

- (1) Part 3 (commencing with Section 5800), the Adult and Older Adult System of Care Act.
- (2) Part 3.2 (commencing with Section 5830), Innovative Programs.
- (3) Part 3.6 (commencing with Section 5840), Prevention and Early Intervention Programs.
- (4) Part 3.9 (commencing with Section 5849.1), No Place Like Home Program.
- (5) Part 4 (commencing with Section 5850), the Children's Mental Health Services Act.

(b) Nothing in the establishment of this fund, nor any other provisions of the act establishing it or the programs



funded shall be construed to modify the obligation of health care service plans and disability insurance policies to provide coverage for mental health services, including those services required under Section 1374.72 of the Health and Safety Code and Section 10144.5 of the Insurance Code, related to mental health parity. Nothing in this act shall be construed to modify the oversight duties of the Department of Managed Health Care or the duties of the Department of Insurance with respect to enforcing these obligations of plans and insurance policies.

~~(c) Nothing in this act shall be construed to modify or reduce the existing authority or responsibility of the State Department of Health Care Services.~~

~~(d)~~ *(c)* The ~~State Department of Health Care Services~~ *Mental Health Services Fund Transparency and Accountability Office* shall seek approval of all applicable federal Medicaid approvals to maximize the availability of federal funds and eligibility of participating children, adults, and seniors for medically necessary care.

~~(e)~~ *(d)* Share of costs for services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) of this division, shall be determined in accordance with the Uniform Method of Determining Ability to Pay applicable to other publicly funded mental health services, unless this Uniform Method is replaced by another method of determining co-payments, in which case the new method applicable to other mental health services shall be applicable to services pursuant to Part 3 (commencing with Section 5800) and Part 4 (commencing with Section 5850) of this division.

~~(f)~~ *(e)* The Supportive Housing Program Subaccount is hereby created in the Mental Health Services Fund. Notwithstanding Section 13340 of the Government Code, all moneys in the subaccount are reserved and continuously appropriated, without regard to fiscal years, to the California Health Facilities Financing Authority to provide funds to meet its financial obligations pursuant to any service contracts entered into pursuant to Section 5849.35. Notwithstanding any other law, including any other provision of this section, no later than the last day of each month, the Controller shall, prior to any transfer or expenditure from the fund for any other purpose for the following month, transfer from the Mental Health Services Fund to the Supportive Housing Program Subaccount an amount which has been certified by the California Health Facilities Financing Authority pursuant to paragraph (3) of subdivision (a) of Section 5849.35, but not to exceed an aggregate amount of one hundred forty million (\$140,000,000) per year. If in any month the amounts in the Mental Health Services Fund are insufficient to fully transfer to the subaccount or the amounts in the subaccount are insufficient to fully pay the amount certified by the California Health Facilities Financing Authority, the shortfall shall be carried over to the next month. Moneys in the Supportive Housing Program Subaccount shall not be loaned to the General Fund pursuant to Section 16310 or 16381 of the Government Code.

**SEC. 14.** Section 5891 of the Welfare and Institutions Code is amended to read:

**5891.** (a) The funding established pursuant to this act shall be utilized to expand mental health services. Except as provided in subdivision (j) of Section 5892 due to the state's fiscal crisis, these funds shall not be used to supplant existing state or county funds utilized to provide mental health services. The state shall continue to provide financial support for mental health programs with not less than the same entitlements, amounts of allocations from the General Fund or from the Local Revenue Fund 2011 in the State Treasury, and formula distributions of dedicated funds as provided in the last fiscal year which ended prior to the effective date of this act. The state shall not make any change to the structure of financing mental health services, which increases a county's share of costs or financial risk for mental health services unless the state includes adequate funding to fully compensate for such increased costs or financial risk. These funds shall only be used to pay for the programs authorized in Sections 5890 and 5892. These funds may not be used to pay for any other program. These funds may not be loaned to the General Fund or any other fund of the state, or a county general fund or any other county fund for any purpose other than those authorized by Sections 5890 and 5892.

(b) (1) Notwithstanding subdivision (a), and except as provided in paragraph (2), the Controller may use the funds created pursuant to this part for loans to the General Fund as provided in Sections 16310 and 16381 of the Government Code. Any such loan shall be repaid from the General Fund with interest computed at 110 percent of the Pooled Money Investment Account rate, with interest commencing to accrue on the date the loan is made from the fund. This subdivision does not authorize any transfer that would interfere with the carrying out of the object for which these funds were created.

(2) This subdivision does not apply to the Supportive Housing Program Subaccount created by subdivision ~~(f)~~ *(e)* of Section 5890 or any moneys paid by the California Health Facilities Financing Authority to the Department of Housing and Community Development as a service fee pursuant to a service contract authorized by Section 5849.35.

(c) Commencing July 1, 2012, on or before the 15th day of each month, pursuant to a methodology provided by

the State Department of Health Care Services, the Controller shall distribute to each Local Mental Health Service Fund established by counties pursuant to subdivision (f) of Section 5892, all unexpended and unreserved funds on deposit as of the last day of the prior month in the Mental Health Services Fund, established pursuant to Section 5890, for the provision of programs and other related activities set forth in Part 3 (commencing with Section 5800), Part 3.2 (commencing with Section 5830), Part 3.6 (commencing with Section 5840), Part 3.9 (commencing with Section 5849.1), and Part 4 (commencing with Section 5850).

(d) Counties shall base their expenditures on the county mental health program's three-year program and expenditure plan or annual update, as required by Section 5847. Nothing in this subdivision shall affect subdivision (a) or (b).

**SEC. 15.** Section 5892 of the Welfare and Institutions Code is amended to read:

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

(1) In 2005–06, 2006–07, and in 2007–08, 10 percent shall be placed in a trust fund to be expended for education and training programs pursuant to Part 3.1.

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

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

(4) The expenditure for prevention and early intervention may be increased in any county in which the ~~department-~~ *Mental Health Services Fund Transparency and Accountability Office* determines that the increase will decrease the need and cost for additional services to severely mentally ill persons in that county by an amount at least commensurate with the proposed increase.

(5) The balance of funds shall be distributed to county mental health programs for services to persons with severe mental illnesses pursuant to Part 4 (commencing with Section 5850) for the children's system of care and Part 3 (commencing with Section 5800) for the adult and older adult system of care.

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

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

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

(d) Prior to making the allocations pursuant to subdivisions (a), (b), and (c), funds shall be reserved for the costs for the ~~State Department of Health Care Services,~~ *Mental Health Services Fund Transparency and Accountability Office*, the California Mental Health Planning Council, the Office of Statewide Health Planning and Development, the Mental Health Services Oversight and Accountability Commission, the State Department of Public Health, and any other state agency to implement all duties pursuant to the programs set forth in this section. These costs shall not exceed 5 percent of the total of annual revenues received for the fund. The administrative costs shall include funds to assist consumers and family members to ensure the appropriate state and county agencies give full consideration to concerns about quality, structure of service delivery, or access to services. The amounts allocated for administration shall include amounts sufficient to ensure adequate research and evaluation regarding the effectiveness of services being provided and achievement of the outcome measures set forth in Part 3

(commencing with Section 5800), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850) of this division. The amount of funds available for the purposes of this subdivision in any fiscal year shall be subject to appropriation in the annual Budget Act.

(e) In 2004–05, funds shall be allocated as follows:

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

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

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

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

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

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

(h) Other than funds placed in a reserve in accordance with an approved plan, any funds allocated to a county that have not been spent for their authorized purpose within three years shall revert to the state to be deposited into the fund and available for other counties in future years, provided however, that funds for capital facilities, technological needs, or education and training may be retained for up to 10 years before reverting to the fund.

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

~~(j) For the 2011–12 fiscal year, General Fund revenues will be insufficient to fully fund many existing mental health programs, including Early and Periodic Screening, Diagnosis, and Treatment (EPSDT), Medi-Cal Specialty Mental Health Managed Care, and mental health services provided for special education pupils. In order to adequately fund those programs for the 2011–12 fiscal year and avoid deeper reductions in programs that serve individuals with severe mental illness and the most vulnerable, medically needy citizens of the state, prior to distribution of funds under paragraphs (1) to (6), inclusive, of subdivision (a), effective July 1, 2011, moneys shall be allocated from the Mental Health Services Fund to the counties as follows:~~

~~(1) Commencing July 1, 2011, one hundred eighty-three million six hundred thousand dollars (\$183,600,000) of the funds available as of July 1, 2011, in the Mental Health Services Fund, shall be allocated in a manner consistent with subdivision (c) of Section 5778 and based on a formula determined by the state in consultation with the County Behavioral Health Directors Association of California to meet the fiscal year 2011–12 General Fund obligation for Medi-Cal Specialty Mental Health Managed Care.~~

~~(2) Upon completion of the allocation in paragraph (1), the Controller shall distribute to counties ninety-eight million five hundred eighty-six thousand dollars (\$98,586,000) from the Mental Health Services Fund for mental health services for special education pupils based on a formula determined by the state in consultation with the County Behavioral Health Directors Association of California.~~

~~(3) Upon completion of the allocation in paragraph (2), the Controller shall distribute to counties 50 percent of their 2011–12 Mental Health Services Act component allocations consistent with Sections 5847 and 5891, not to exceed four hundred eighty-eight million dollars (\$488,000,000). This allocation shall commence beginning August 1, 2011.~~

~~(4) Upon completion of the allocation in paragraph (3), and as revenues are deposited into the Mental Health Services Fund, the Controller shall distribute five hundred seventy-nine million dollars (\$579,000,000) from the Mental Health Services Fund to counties to meet the General Fund obligation for EPSDT for the 2011–12 fiscal year. These revenues shall be distributed to counties on a quarterly basis and based on a formula determined by the state in consultation with the County Behavioral Health Directors Association of California. These funds shall~~

~~not be subject to reconciliation or cost settlement.~~

~~(5) The Controller shall distribute to counties the remaining 2011-12 Mental Health Services Act component allocations consistent with Sections 5847 and 5891, beginning no later than April 30, 2012. These remaining allocations shall be made on a monthly basis.~~

~~(6) The total one-time allocation from the Mental Health Services Fund for EPSDT, Medi-Cal Specialty Mental Health Managed Care, and mental health services provided to special education pupils as referenced shall not exceed eight hundred sixty-two million dollars (\$862,000,000). Any revenues deposited in the Mental Health Services Fund in the 2011-12 fiscal year that exceed this obligation shall be distributed to counties for remaining fiscal year 2011-12 Mental Health Services Act component allocations, consistent with Sections 5847 and 5891.~~

~~(k) Subdivision (j) shall not be subject to repayment.~~

~~(l) Subdivision (j) shall become inoperative on July 1, 2012.~~

**SEC. 16.** Section 5897 of the Welfare and Institutions Code is amended to read:

**5897.** (a) Notwithstanding any other provision of state law, the ~~State Department of Health Care Services-~~ *Mental Health Services Fund Transparency and Accountability Office* shall implement the mental health services provided by Part 3 (commencing with Section 5800), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850) through contracts with county mental health programs or counties acting jointly. A contract may be exclusive and may be awarded on a geographic basis. For purposes of this section, a county mental health program includes a city receiving funds pursuant to Section 5701.5.

(b) Two or more counties acting jointly may agree to deliver or subcontract for the delivery of those mental health services. The agreement may encompass all or any part of the mental health services provided pursuant to these parts. Any agreement between counties shall delineate each county's responsibilities and fiscal liability.

(c) The ~~department~~ *office* shall implement the provisions of Part 3 (commencing with Section 5800), Part 3.2 (commencing with Section 5830), Part 3.6 (commencing with Section 5840), and Part 4 (commencing with Section 5850) through the annual county mental health services performance contract, as specified in Chapter 2 (commencing with Section 5650) of Part 2.

(d) The ~~department~~ *office* shall conduct program reviews of performance contracts to determine compliance. Each county performance contract shall be reviewed at least once every three years, subject to available funding for this purpose.

(e) When a county mental health program is not in compliance with its performance contract, the ~~department~~ *office* may request a plan of correction with a specific timeline to achieve improvements. The ~~department~~ *office* shall post on its ~~website-~~ *Internet Web site* any plans of correction requested and the related findings.

(f) Contracts awarded by the ~~State Department of Health Care Services,-~~ *office*, the State Department of Public Health, the California Mental Health Planning Council, the Office of Statewide Health Planning and Development, and the Mental Health Services Oversight and Accountability Commission pursuant to Part 3 (commencing with Section 5800), Part 3.1 (commencing with Section 5820), Part 3.2 (commencing with Section 5830), Part 3.6 (commencing with Section 5840), Part 3.7 (commencing with Section 5845), Part 4 (commencing with Section 5850), and Part 4.5 (commencing with Section 5890), may be awarded in the same manner in which contracts are awarded pursuant to Section 5814 and the provisions of subdivisions (g) and (h) of Section 5814 shall apply to those contracts.

(g) For purposes of Section 14712, the allocation of funds pursuant to Section 5892 ~~which~~ *that* are used to provide services to Medi-Cal beneficiaries shall be included in calculating anticipated county matching funds and the transfer to the State Department of Health Care Services of the anticipated county matching funds needed for community mental health programs.

**SEC. 17.** Section 5898 of the Welfare and Institutions Code is amended to read:

**5898.** The ~~State Department of Health Care Services,-~~ *Mental Health Services Fund Transparency and Accountability Office*, in consultation with the Mental Health Services Oversight and Accountability Commission, shall develop regulations, as necessary, for the ~~State Department of Health Care Services,-~~ *office*, the Mental Health Services Oversight and Accountability Commission, or designated state and local agencies to implement this act. Regulations adopted pursuant to this section shall be developed with the maximum feasible opportunity

for public participation and comments.

**SEC. 18.** Section 5899 of the Welfare and Institutions Code is amended to read:

**5899.** (a) The ~~State Department of Health Care Services,~~ *Mental Health Services Fund Transparency and Accountability Office*, in consultation with the Mental Health Services Oversight and Accountability Commission and the County Behavioral Health Directors Association of California, shall develop and administer instructions for the Annual Mental Health Services Act Revenue and Expenditure Report. The instructions shall include a requirement that the county certify the accuracy of this report. This report shall be submitted electronically to the ~~department office~~ and to the Mental Health Services Oversight and Accountability Commission. The ~~department office~~ and the commission shall annually post each county's report on ~~its website~~ *their Internet Web sites* in a timely manner.

(b) The ~~department, office,~~ in consultation with the commission and the County Behavioral Health Directors Association of California, shall revise the instructions described in subdivision (a) by July 1, 2017, and as needed thereafter, to improve the timely and accurate submission of county revenue and expenditure data.

(c) The purpose of the Annual Mental Health Services Act Revenue and Expenditure Report is as follows:

- (1) Identify the expenditures of Mental Health Services Act (MHSA) funds that were distributed to each county.
- (2) Quantify the amount of additional funds generated for the mental health system as a result of the MHSA.
- (3) Identify unexpended funds, and interest earned on MHSA funds.
- (4) Determine reversion amounts, if applicable, from prior fiscal year distributions.

(d) This report is intended to provide information that allows for the evaluation of all of the following:

- (1) Children's systems of care.
- (2) Prevention and early intervention strategies.
- (3) Innovative projects.
- (4) Workforce education and training.
- (5) Adults and older adults systems of care.
- (6) Capital facilities and technology needs.

(e) If a county does not submit the annual revenue and expenditure report described in subdivision (a) by the required deadline, the ~~department office~~ may withhold MHSA funds until the reports are submitted.

**SEC. 19.** *The Legislature finds and declares that this act is consistent with, and furthers the intent of, the Mental Health Services Act within the meaning of Section 18 of the Mental Health Services Act.*