

AMENDED IN SENATE MARCH 10, 2022

SENATE BILL

No. 970

Introduced by Senator Eggman

(Principal coauthor: Senator Stern)

(Principal coauthors: Assembly Members Carrillo, Friedman, and
Quirk-Silva)

(Coauthor: Senator Glazer)

February 10, 2022

An act to amend Sections 5651, 5847, 5848, 5891, 5891.5, and 5892 of, and to add Section 5846.5 to, the Welfare and Institutions Code, relating to mental health; *health, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 970, as amended, Eggman. Mental Health Services—~~Act: accountability and planning.~~ *Act.*

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, and innovative programs.~~ *The Existing law authorizes the MHSA to be amended by a ²/₃ vote of each house of the Legislature if the amendments are consistent with, and further the intent of, the MHSA.*

The MHSA requires a certain percentage of funds in the MHSF to be used by the counties for specified purposes, including requiring 20% of all unexpended and unreserved funds on deposit in the MHSF each month to be distributed to the counties and used for prevention and early intervention programs and requiring 5% of the total funding for

each county mental health program for children’s mental health care, adult and older adult mental health care, and prevention and early intervention to be utilized for innovative programs, as specified.

This bill would amend the MHSA by eliminating those percentage funding requirements commencing with the 2024–25 fiscal year. By changing the purposes for which the funds in the MHSF may be used, the bill would make an appropriation.

The MHSA—established establishes 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 the MHSA 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 MHSA.~~

This bill would amend the MHSA by, instead, requiring the counties to prepare and submit 5-year program and expenditure plans, and annual updates, as specified.

This bill would require the California Health and Human Services Agency, by July 1, 2024, to establish the California MHSA Outcomes and Accountability Review (MHSA-OAR), consisting of performance indicators, county self-assessments, and county MHSA improvement plans, to facilitate a local accountability system that fosters continuous quality improvement in county programs funded by the MHSA and in the collection and dissemination by the department of best practices in service delivery. The bill would require the agency to convene a workgroup, as specified, to establish a workplan by which the MHSA-OAR shall be conducted, including a process for qualitative peer reviews of counties’ MHSA services and uniform elements for the county MHSA system improvement plans. The bill would require the agency to establish specific process measures and uniform elements for the county MHSA improvement plans and updates. The bill would require the counties to execute and fulfil components of its MHSA system improvement plan that can be accomplished with existing resources. The bill would require the agency to report to the Legislature, on an annual basis, a report that summarizes county performance on the established process and outcome measures during the reporting period, analyzes county performance trends over time, and makes findings and recommendations for common MHSA services improvements identified in the county MHSA self-assessments and county MHSA system improvement plans. By imposing new

requirements on counties, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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

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

1 SECTION 1. Section 5651 of the Welfare and Institutions Code
2 is amended to read:

3 5651. (a) Counties shall comply with the terms of the county
4 mental health services performance contract.

5 (b) The county mental health services performance contract
6 shall include all of the following provisions:

7 (1) That the county shall comply with the expenditure
8 requirements of Section 17608.05.

9 (2) That the county shall provide services to persons receiving
10 involuntary treatment as required by Part 1 (commencing with
11 Section 5000) and Part 1.5 (commencing with Section 5585).

12 (3) That the county shall comply with all requirements necessary
13 for Medi-Cal reimbursement for mental health treatment services
14 and case management programs provided to Medi-Cal eligible
15 individuals, including, but not limited to, the provisions set forth
16 in Chapter 3 (commencing with Section 5700), and that the county
17 shall submit cost reports and other data to the department in the
18 form and manner determined by the State Department of Health
19 Care Services.

20 (4) That the local mental health advisory board has reviewed
21 and approved procedures ensuring citizen and professional
22 involvement at all stages of the planning process pursuant to
23 Section 5604.2.

24 (5) That the county shall comply with all provisions and
25 requirements in law pertaining to patient rights.

1 (6) That the county shall comply with all requirements in federal
2 law and regulation, and all agreements, certifications, assurances,
3 and policy letters, pertaining to federally funded mental health
4 programs, including, but not limited to, the Projects for Assistance
5 in Transition from Homelessness grant and Community Mental
6 Health Services Block Grant programs.

7 (7) That the county shall provide all data and information set
8 forth in Sections 5610 and 5664.

9 (8) That the county, if it elects to provide the services described
10 in Chapter 2.5 (commencing with Section 5670), shall comply
11 with guidelines established for program initiatives outlined in that
12 chapter.

13 (9) That the county shall comply with all applicable laws and
14 regulations for all services delivered, including all laws,
15 regulations, and guidelines of the Mental Health Services Act.

16 (10) The State Department of Health Care Services' ability to
17 monitor the county's five-year program and expenditure plan and
18 annual update pursuant to Section 5847.

19 (11) Other information determined to be necessary by the
20 director, to the extent this requirement does not substantially
21 increase county costs.

22 (c) The State Department of Health Care Services may include
23 contract provisions for other federal grants or county mental health
24 programs in this performance contract.

25 SEC. 2. Section 5846.5 is added to the Welfare and Institutions
26 Code, to read:

27 5846.5. (a) This section shall be known, and may be cited as,
28 the Mental Health Services Act (MHSA) Outcomes and
29 Accountability Review Act of 2022.

30 (b) The California Health and Human Services Agency shall
31 establish, by July 1, 2024, the California MHSA Outcomes and
32 Accountability Review (MHSA-OAR) to facilitate a local
33 accountability system that fosters continuous quality improvement
34 in county programs funded by the MHSA and in the collection
35 and dissemination by the department of best practices in service
36 delivery. The MHSA-OAR shall cover MHSA-funded services
37 provided to current and former recipients and shall include the
38 programmatic elements that each county offers as part of its MHSA
39 service array, as well as any local program components, and shall

1 consist of performance indicators, a county MHSA self-assessment
2 process, and a county MHSA system improvement plan.

3 (c) (1) (A) On or before October 1, 2023, the agency shall
4 convene a workgroup comprised of representatives from the State
5 Department of Health Care Services, the Mental Health Services
6 Oversight and Accountability Commission, county behavioral
7 health agencies, legislative staff, interested behavioral health
8 advocacy and research organizations, current and former MHSA
9 service recipients, organizations that represent county behavioral
10 health agencies and county boards of supervisors, researchers,
11 people with lived experience, county behavioral health agency
12 partners, and any other entities or individuals that the department
13 deems necessary. The workgroup shall establish a workplan by
14 which the MHSA-OAR shall be conducted, including a process
15 for qualitative peer reviews of counties' MHSA services.

16 (B) The department shall report annually to the Subcommittee
17 on Health and Human Services of the Senate Committee on Budget
18 and Fiscal Review and the Subcommittee on Health and Human
19 Services of the Assembly Committee on Budget during the budget
20 process with an update on the schedule for development of, and
21 future changes to, the MHSA-OAR.

22 (2) At a minimum, in establishing the work plan, the workgroup
23 shall consider existing MHSA performance indicators being
24 measured, additional, alternative, or additional and alternative
25 process and outcome indicators to be measured, development of
26 uniform elements of the county MHSA self-assessment and the
27 county MHSA system improvement plans, timelines for
28 implementation, recommendations for reducing the existing MHSA
29 services data reporting burden, recommendations for financial
30 incentives to counties for achievement on performance measures,
31 and an analysis of the county and state workload associated with
32 implementation of the requirements of this section.

33 (3) The workgroup shall develop the uniform elements for the
34 county MHSA system improvement plans required in paragraph
35 (3) of subdivision (d). The agency, in consultation with the
36 workgroup, shall develop the uniform elements of the updates to
37 those plans, as required pursuant to subparagraph (D) of paragraph
38 (3) of subdivision (d).

1 (d) The MHSA-OAR shall consist of the following three
2 components: performance indicators, a county MHSA
3 self-assessment, and a county MHSA system improvement plan.

4 (1) (A) The MHSA-OAR performance indicators shall be
5 consistent with programmatic goals for the MHSA, and shall
6 include both process and outcome measures. These measures shall
7 be established in order to provide baseline and ongoing information
8 about how the state and counties are performing over time and to
9 inform and guide each county behavioral health agency's MHSA
10 self-assessment and MHSA system improvement plan.

11 (i) Process measures shall include measures of participant
12 engagement, MHSA service delivery, and participation. Specific
13 process measures shall be established by the agency, in consultation
14 with the workgroup, and may include measures of engagement as
15 shown by improvement in program participation, timeliness of
16 service provision, rates of utilization of program components, and
17 referrals and utilization of services.

18 (ii) Outcome measures shall include *measures of the reduction*
19 *of the negative outcomes described in subdivision (d) of Section*
20 *5840, which address prevention and early intervention strategies*
21 *for mental illness, and* measures of employment, educational
22 attainment, program exits, and program reentries, adherence to
23 treatment plans, attainment of housing, reduction in contacts with
24 law enforcement, reduction in hospitalizations, and may include
25 other indicators of well-being as determined by the agency, in
26 consultation with the workgroup.

27 (B) Performance indicator data available in existing county data
28 systems shall be collected by counties and provided to the agency,
29 and performance indicator data available in existing state agency
30 data systems shall be collected by the agency and provided to the
31 counties. These data shall be reported in a manner, and on a
32 schedule, determined by the agency, in consultation with the
33 workgroup, but no less frequently than semiannually.

34 (C) (i) During the first five-year MHSA-OAR cycle,
35 performance indicator data reported by each county, shall be used
36 to establish both county and statewide baselines for each of the
37 process measures. After the first review cycle, the agency shall,
38 in consultation with the workgroup, establish standard target
39 thresholds for each of the process measures established by the
40 workgroup.

1 (ii) The agency, in consultation with the workgroup, shall
2 develop a process for resolving any disputes regarding the
3 establishment of standard process thresholds pursuant to clause
4 (i).

5 (D) For subsequent reviews, and based upon availability of
6 additional data through interagency data-sharing agreements, the
7 workgroup shall convene, as necessary, to consider whether to
8 establish additional performance indicators that support the
9 programmatic goals for the MHSA. Additional performance
10 indicators established shall also be subject to the process described
11 in subparagraph (C) and shall include consideration of when data
12 on the additional performance indicators would be available for
13 reporting, if not already available.

14 (E) If, during subsequent reviews, there is sufficient reason to
15 establish statewide performance standards for one or more outcome
16 measures, the agency may, in consultation with the workgroup,
17 establish those standards for each of the agreed-upon outcome
18 measures.

19 (2) (A) The county MHSA self-assessment component of the
20 MHSA-OAR, as established by the workgroup, shall require the
21 county behavioral health agencies to assess their performance on
22 the established process and outcome measures that comprise the
23 performance indicators, identify the strengths and weaknesses in
24 their current practice and resource deployment, identify and
25 describe how local operational decisions and systemic factors
26 affect program outcomes, and consider areas of focus that may be
27 included in the county MHSA system improvement plan, as
28 described in paragraph (3). The county MHSA self-assessment
29 process shall be designed to identify areas of best practices for
30 replication and for system improvement at the county level, and
31 shall guide the development of the county MHSA system
32 improvement plan.

33 (B) (i) The county MHSA self-assessment process shall be
34 completed every five years by the county, in consultation and
35 collaboration with local stakeholders, and submitted to the agency.

36 (ii) Local stakeholders shall include county behavioral health
37 directors, supervisors, and caseworkers; current and former MHSA
38 service recipients; and county behavioral health agency partners.
39 To the extent possible and relevant, local stakeholders shall also
40 include representatives of tribal organizations and the local

1 behavioral health board. Additional specific county behavioral
2 health agency partners shall be determined by the county and may
3 include, but are not limited to, adult education providers, providers
4 of services for survivors of domestic violence, the local housing
5 continuum of care, county human service departments, county
6 drug and alcohol programs, community-based service providers,
7 and organizations that represent MHSA recipients, as appropriate.

8 (3) (A) (i) The county MHSA system improvement plan shall,
9 at a minimum, describe how the county will improve its MHSA
10 program performance in strategic focus areas based upon
11 information learned through the county MHSA self-assessment
12 process. The county MHSA system improvement plan shall include
13 the uniform elements established by the workgroup pursuant to
14 paragraph (3) of subdivision (c).

15 (ii) The county MHSA system improvement plan shall be
16 completed every five years by the county, approved in public
17 session by the county's board of supervisors or, as applicable, chief
18 elected official, and be submitted to the agency.

19 (B) The county MHSA system improvement plan shall include
20 an MHSA services peer review element, the purpose of which
21 shall be to provide additional insight and technical assistance by
22 peer counties.

23 (C) Strategic focus areas for the county MHSA system
24 improvement plan shall be determined by the county, informed by
25 the county MHSA self-assessment process, as described in
26 paragraph (2), with targets for improvement based upon what is
27 learned in the county MHSA self-assessment process.

28 (D) The county behavioral health agency shall complete an
29 annual progress report on the status of its system improvement
30 plan and shall submit these reports to the agency.

31 (e) (1) The agency shall receive, review, and, based on its
32 determination of whether the county MHSA system improvement
33 plan meets the required elements, certify as complete all
34 county-submitted performance indicator data, county MHSA
35 self-assessments, county MHSA system improvement plans, and
36 annual progress reports, and shall identify and promote the
37 replication of best practices in MHSA service delivery to achieve
38 the established process and outcome measures.

1 (2) The agency shall monitor, on an ongoing basis, county
2 performance on the measures developed pursuant to subdivision
3 (d).

4 (3) The agency shall make data collected pursuant to this section
5 publicly available on its internet website.

6 (4) The agency shall, on an annual basis, submit a report to the
7 Legislature that summarizes county performance on the established
8 process and outcome measures during the reporting period,
9 analyzes county performance trends over time, and makes findings
10 and recommendations for common MHSA services improvements
11 identified in the county MHSA self-assessments and county MHSA
12 system improvement plans, including information on common
13 statutory, regulatory, or fiscal barriers identified as inhibiting
14 system improvements and any recommendations to overcome
15 those barriers.

16 (5) (A) The agency shall provide or facilitate the provision of
17 technical assistance to county behavioral health agencies as part
18 of the peer review that supports the county's selected areas for
19 improvement, as described in its system improvement plan.

20 (B) If, in the course of its review of county MHSA system
21 improvement plans and annual updates, or, in the course of its
22 review of regularly submitted performance indicator data, the
23 agency determines that a county is consistently failing to make
24 progress toward its strategic focus areas for improvement or is
25 consistently failing to meet the process measure standard target
26 thresholds established pursuant to subparagraph (C) of paragraph
27 (1) of subdivision (d), the agency shall engage the county in a
28 process of targeted technical assistance and support to address and
29 resolve the identified shortcomings.

30 (f) A county shall execute and fulfill components of its MHSA
31 system improvement plan that can be accomplished with existing
32 resources.

33 SEC. 3. Section 5847 of the Welfare and Institutions Code is
34 amended to read:

35 5847. (a) Each county mental health program shall prepare
36 and submit a five-year program and expenditure plan, and annual
37 updates, adopted by the county board of supervisors, to the Mental
38 Health Services Oversight and Accountability Commission and
39 the State Department of Health Care Services within 30 days after
40 adoption.

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

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

9 (2) A program for services to children in accordance with Part
10 4 (commencing with Section 5850), to include a program pursuant
11 to Chapter 4 (commencing with Section 18250) of Part 6 of
12 Division 9 or provide substantial evidence that it is not feasible to
13 establish a wraparound program in that county.

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

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

18 (5) A program for technological needs and capital facilities
19 needed to provide services pursuant to Part 3 (commencing with
20 Section 5800), Part 3.6 (commencing with Section 5840), and Part
21 4 (commencing with Section 5850). All plans for proposed facilities
22 with restrictive settings shall demonstrate that the needs of the
23 people to be served cannot be met in a less restrictive or more
24 integrated setting, such as permanent supportive housing.

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

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

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

5 (9) Certification by the county behavioral health director and
6 by the county auditor-controller that the county has complied with
7 any fiscal accountability requirements as directed by the State
8 Department of Health Care Services, and that all expenditures are
9 consistent with the requirements of the Mental Health Services
10 Act.

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

16 (d) Each year, the State Department of Health Care Services
17 shall inform the County Behavioral Health Directors Association
18 of California and the Mental Health Services Oversight and
19 Accountability Commission of the methodology used for revenue
20 allocation to the counties.

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

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

1 (g) The department shall post on its internet website the five-year
2 program and expenditure plans submitted by every county pursuant
3 to subdivision (a) in a timely manner.

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

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

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

31 (j) Notwithstanding Chapter 3.5 (commencing with Section
32 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
33 the department, without taking any further regulatory action, may
34 implement, interpret, or make specific subdivisions (h) and (i) of
35 this section and subdivision (i) of Section 5892 by means of
36 all-county letters or other similar instructions.

37 SEC. 4. Section 5848 of the Welfare and Institutions Code is
38 amended to read:

39 5848. (a) Each five-year program and expenditure plan and
40 update shall be developed with local stakeholders, including adults

1 and seniors with severe mental illness, families of children, adults,
2 and seniors with severe mental illness, providers of services, law
3 enforcement agencies, education, social services agencies, veterans,
4 representatives from veterans organizations, providers of alcohol
5 and drug services, health care organizations, and other important
6 interests. Counties shall demonstrate a partnership with constituents
7 and stakeholders throughout the process that includes meaningful
8 stakeholder involvement on mental health policy, program
9 planning, and implementation, monitoring, quality improvement,
10 evaluation, and budget allocations. A draft plan and update shall
11 be prepared and circulated for review and comment for at least 30
12 days to representatives of stakeholder interests and any interested
13 party who has requested a copy of the draft plans.

14 (b) The mental health board established pursuant to Section
15 5604 shall conduct a public hearing on the draft five-year program
16 and expenditure plan and annual updates at the close of the 30-day
17 comment period required by subdivision (a). Each adopted
18 five-year program and expenditure plan and update shall include
19 any substantive written recommendations for revisions. The
20 adopted five-year program and expenditure plan or update shall
21 summarize and analyze the recommended revisions. The mental
22 health board shall review the adopted plan or update and make
23 recommendations to the local mental health agency or local
24 behavioral health agency, as applicable, for revisions. The local
25 mental health agency or local behavioral health agency, as
26 applicable, shall provide an annual report of written explanations
27 to the local governing body and the State Department of Health
28 Care Services for any substantive recommendations made by the
29 local mental health board that are not included in the final plan or
30 update.

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

39 (d) Mental health services provided pursuant to Part 3
40 (commencing with Section 5800) and Part 4 (commencing with

1 Section 5850) shall be included in the review of program
2 performance by the California Behavioral Health Planning Council
3 required by paragraph (2) of subdivision (c) of Section 5772 and
4 in the local mental health board's review and comment on the
5 performance outcome data required by paragraph (7) of subdivision
6 (a) of Section 5604.2.

7 (e) The department shall annually post on its internet website
8 a summary of the performance outcomes reports submitted by
9 counties if clearly and separately identified by counties as the
10 achievement of performance outcomes pursuant to subdivision
11 (c).

12 (f) For purposes of this section, "substantive recommendations
13 made by the local mental health board" means any recommendation
14 that is brought before the board and approved by a majority vote
15 of the membership present at a public hearing of the local mental
16 health board that has established its quorum.

17 SEC. 5. Section 5891 of the Welfare and Institutions Code is
18 amended to read:

19 5891. (a) The funding established pursuant to this act shall be
20 utilized to expand mental health services. Except as provided in
21 subdivision (j) of Section 5892 due to the state's fiscal crisis, these
22 funds shall not be used to supplant existing state or county funds
23 utilized to provide mental health services. The state shall continue
24 to provide financial support for mental health programs with not
25 less than the same entitlements, amounts of allocations from the
26 General Fund or from the Local Revenue Fund 2011 in the State
27 Treasury, and formula distributions of dedicated funds as provided
28 in the last fiscal year which ended prior to the effective date of
29 this act. The state shall not make any change to the structure of
30 financing mental health services, which increases a county's share
31 of costs or financial risk for mental health services unless the state
32 includes adequate funding to fully compensate for the increased
33 costs or financial risk. These funds shall only be used to pay for
34 the programs authorized in Sections 5890 and 5892. These funds
35 may not be used to pay for any other program. These funds may
36 not be loaned to the General Fund or any other fund of the state,
37 or a county general fund or any other county fund for any purpose
38 other than those authorized by Sections 5890 and 5892.

39 (b) (1) Notwithstanding subdivision (a), and except as provided
40 in paragraph (2), the Controller may use the funds created pursuant

1 to this part for loans to the General Fund as provided in Sections
2 16310 and 16381 of the Government Code. Any such loan shall
3 be repaid from the General Fund with interest computed at 110
4 percent of the Pooled Money Investment Account rate, with interest
5 commencing to accrue on the date the loan is made from the fund.
6 This subdivision does not authorize any transfer that would
7 interfere with the carrying out of the object for which these funds
8 were created.

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

15 (c) Commencing July 1, 2012, on or before the 15th day of each
16 month, pursuant to a methodology provided by the State
17 Department of Health Care Services, the Controller shall distribute
18 to each Local Mental Health Service Fund established by counties
19 pursuant to subdivision (f) of Section 5892, all unexpended and
20 unreserved funds on deposit as of the last day of the prior month
21 in the Mental Health Services Fund, established pursuant to Section
22 5890, for the provision of programs and other related activities set
23 forth in Part 3 (commencing with Section 5800), Part 3.2
24 (commencing with Section 5830), Part 3.6 (commencing with
25 Section 5840), Part 3.9 (commencing with Section 5849.1), and
26 Part 4 (commencing with Section 5850).

27 (d) Counties shall base their expenditures on the county mental
28 health program's five-year program and expenditure plan or annual
29 update, as required by Section 5847. This subdivision shall not
30 affect subdivision (a) or (b).

31 SEC. 6. Section 5891.5 of the Welfare and Institutions Code
32 is amended to read:

33 5891.5. (a) (1) The programs in paragraphs (1) to (3),
34 inclusive, and paragraph (5) of subdivision (a) of Section 5890
35 may include substance use disorder treatment for children, adults,
36 and older adults with cooccurring mental health and substance use
37 disorders who are eligible to receive mental health services
38 pursuant to those programs. The MHSA includes persons with a
39 serious mental disorder and a diagnosis of substance abuse in the
40 definition of persons who are eligible for MHSA services in

1 Sections 5878.2 and 5813.5, which reference paragraph (2) of
2 subdivision (b) of Section 5600.3.

3 (2) Provision of substance use disorder services pursuant to this
4 section shall comply with all applicable requirements of the Mental
5 Health Services Act.

6 (3) Treatment of cooccurring mental health and substance use
7 disorders shall be identified in a county's five-year program and
8 expenditure plan or annual update, as required by Section 5847.

9 (b) (1) When a person being treated for cooccurring mental
10 health and substance use disorders pursuant to subdivision (a) is
11 determined to not need the mental health services that are eligible
12 for funding pursuant to the MHSA, the county shall refer the person
13 receiving treatment to substance use disorder treatment services
14 in a timely manner.

15 (2) Funding established pursuant to the MHSA may be used to
16 assess whether a person has cooccurring mental health and
17 substance use disorders and to treat a person who is preliminarily
18 assessed to have cooccurring mental health and substance use
19 disorders, even when the person is later determined not to be
20 eligible for services provided with funding established pursuant
21 to the MHSA.

22 (c) A county shall report to the department, in a form and
23 manner determined by the department, both of the following:

24 (1) The number of people assessed for cooccurring mental health
25 and substance use disorders.

26 (2) The number of people assessed for cooccurring mental health
27 and substance use disorders who were ultimately determined to
28 have only a substance use disorder without another cooccurring
29 mental health condition.

30 (d) The department shall by January 1, 2022, and each January
31 1 thereafter, publish on its internet website a report summarizing
32 county activities pursuant to this section for the prior fiscal year.
33 Data shall be reported statewide and by county or groupings of
34 counties, as necessary to protect the private health information of
35 persons assessed.

36 (e) (1) Notwithstanding Chapter 3.5 (commencing with Section
37 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
38 the department may implement, interpret, or make specific this
39 section by means of plan or county letters, information notices,

1 plan or provider bulletins, or other similar instructions, without
2 taking any further regulatory action.

3 (2) On or before July 1, 2025, the department shall adopt
4 regulations necessary to implement this section in accordance with
5 the requirements of Chapter 3.5 (commencing with Section 11340)
6 of Part 1 of Division 3 of Title 2 of the Government Code.

7 SEC. 7. Section 5892 of the Welfare and Institutions Code is
8 amended to read:

9 5892. (a) In order to promote efficient implementation of this
10 act, the county shall use funds distributed from the Mental Health
11 Services Fund as follows:

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

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

22 (3) Twenty percent of funds distributed to the counties pursuant
23 to subdivision (c) of Section 5891 shall be used for prevention and
24 early intervention programs in accordance with Part 3.6
25 (commencing with Section 5840). *Commencing with the 2024–25*
26 *fiscal year, the percentage requirement in this paragraph shall*
27 *not apply.*

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

33 (5) The balance of funds shall be distributed to county mental
34 health programs for services to persons with severe mental illnesses
35 pursuant to Part 4 (commencing with Section 5850) for the
36 children’s system of care and Part 3 (commencing with Section
37 5800) for the adult and older adult system of care. These services
38 may include housing assistance, as defined in Section 5892.5, to
39 the target population specified in Section 5600.3.

1 (6) Five percent of the total funding for each county mental
2 health program for Part 3 (commencing with Section 5800), Part
3 3.6 (commencing with Section 5840), and Part 4 (commencing
4 with Section 5850), shall be utilized for innovative programs in
5 accordance with Sections 5830, 5847, and 5848. *Commencing with*
6 *the 2024–25 fiscal year, the percentage requirement in this*
7 *paragraph shall not apply.*

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

18 (2) A county shall calculate an amount it establishes as the
19 prudent reserve for its Local Mental Health Services Fund, not to
20 exceed 33 percent of the average community services and support
21 revenue received for the fund in the preceding five years. The
22 county shall reassess the maximum amount of this reserve every
23 five years and certify the reassessment as part of the five-year
24 program and expenditure plan required pursuant to Section 5847.

25 (3) Notwithstanding Chapter 3.5 (commencing with Section
26 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
27 the State Department of Health Care Services may allow counties
28 to determine the percentage of funds to allocate across programs
29 created pursuant to Part 4 (commencing with Section 5850) for
30 the children’s system of care and Part 3 (commencing with Section
31 5800) for the adult and older adult system of care for the 2020–21
32 and 2021–22 fiscal years by means of all-county letters or other
33 similar instructions without taking further regulatory action.

34 (c) The allocations pursuant to subdivisions (a) and (b) shall
35 include funding for annual planning costs pursuant to Section 5848.
36 The total of these costs shall not exceed 5 percent of the total of
37 annual revenues received for the fund. The planning costs shall
38 include funds for county mental health programs to pay for the
39 costs of consumers, family members, and other stakeholders to
40 participate in the planning process and for the planning and

1 implementation required for private provider contracts to be
2 significantly expanded to provide additional services pursuant to
3 Part 3 (commencing with Section 5800) and Part 4 (commencing
4 with Section 5850).

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

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

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

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

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

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

36 (f) Each county shall place all funds received from the State
37 Mental Health Services Fund in a Local Mental Health Services
38 Fund. The Local Mental Health Services Fund balance shall be
39 invested consistent with other county funds and the interest earned
40 on the investments shall be transferred into the fund. The earnings

1 on investment of these funds shall be available for distribution
2 from the fund in future fiscal years.

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

6 (h) (1) Other than funds placed in a reserve in accordance with
7 an approved plan, any funds allocated to a county that have not
8 been spent for their authorized purpose within three years, and the
9 interest accruing on those funds, shall revert to the state to be
10 deposited into the Reversion Account, hereby established in the
11 fund, and available for other counties in future years, provided,
12 however, that funds, including interest accrued on those funds, for
13 capital facilities, technological needs, or education and training
14 may be retained for up to 10 years before reverting to the Reversion
15 Account.

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

25 (B) Subparagraph (A) applies to all plans for innovative
26 programs that have received commission approval and are in the
27 process at the time of enactment of the act that added this
28 subparagraph, and to all plans that receive commission approval
29 thereafter.

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

34 (4) (A) Notwithstanding paragraphs (1) and (2), if a county
35 with a population of less than 200,000 receives approval from the
36 Mental Health Services Oversight and Accountability Commission
37 of a plan for innovative programs, pursuant to subdivision (e) of
38 Section 5830, the county's funds identified in that plan for
39 innovative programs shall not revert to the state pursuant to
40 paragraph (1) so long as they are encumbered under the terms of

1 the approved project plan, including any subsequent amendments
2 approved by the commission, or until five years after the date of
3 approval, whichever is later.

4 (B) Subparagraph (A) applies to all plans for innovative
5 programs that have received commission approval and are in the
6 process at the time of enactment of the act that added this
7 subparagraph, and to all plans that receive commission approval
8 thereafter.

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

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

22 SEC. 8. If the Commission on State Mandates determines that
23 this act contains costs mandated by the state, reimbursement to
24 local agencies and school districts for those costs shall be made
25 pursuant to Part 7 (commencing with Section 17500) of Division
26 4 of Title 2 of the Government Code.

O