

AMENDED IN SENATE JUNE 20, 1996
AMENDED IN ASSEMBLY APRIL 18, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2726

Introduced by Assembly Member Woods

February 22, 1996

An act to amend ~~amend Section 7576 of~~ *Section 7576 of*, and to add Section 7572.56 to, the Government Code, relating to public social services.

LEGISLATIVE COUNSEL'S DIGEST

AB 2726, as amended, Woods. Disabled persons.

Existing law makes the State Department of Mental Health or any community mental health service designated by the department for the provision of psychotherapy or other mental health services when required in a child's individualized education program.

This bill would ~~specify that regulations issued for those purposes shall address referrals and a process for reviewing rejected referrals and areas of disagreement on the need for treatment or the type of treatment needed~~ *establish procedures governing referrals of children with disabilities to county mental health departments and the responsibilities of those departments.*

This bill would specify that, commencing July 1, 1997, the fiscal program responsibilities of county mental health

departments shall be the same for placements made outside the state as they are for those made inside the state.

By imposing requirements upon county mental health departments, the bill would constitute 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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 these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

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

1 SECTION 1. Section 7572.56 is added to the
2 Government Code, to read:

3 7572.56. (a) The fiscal and program responsibilities
4 of county mental health departments shall be the same
5 for placements made outside California under this
6 chapter as they are for placements made inside
7 California.

8 (b) This section shall become operative on July 1, 1997.

9 SEC. 2. Section 7576 of the Government Code is
10 amended to read:

11 ~~7576. (a) Notwithstanding any other provision of~~
12 ~~law, the~~

13 7576. (a) The State Department of Mental Health, or
14 any ~~community mental health service~~ county mental
15 health department designated by the State Department
16 of Mental Health, shall be responsible for the provision of
17 psychotherapy or other mental health services, as defined
18 by regulation by the State Department of Mental Health,
19 developed in consultation with the State Department of



1 Education, when required in the child's individualized
2 education program. This service shall be provided
3 directly or by contracting with another public agency,
4 qualified individual, or a state-certified nonpublic,
5 nonsectarian school or agency.

6 ~~(b) Regulations issued pursuant to this chapter shall~~
7 ~~address referrals and a process for reviewing rejected~~
8 ~~referrals and areas of disagreement on the need for~~
9 ~~treatment or the type of treatment needed. A local~~
10 *education agency shall not be required to place a child in*
11 *a more restrictive educational environment in order for*
12 *the child to receive the mental health services specified*
13 *in the child's individualized education plan if the services*
14 *can be provided in a less restrictive setting. The local*
15 *education agency, the county mental health department,*
16 *and the parent shall vigorously attempt to reach a*
17 *mutually satisfactory placement plan that addresses the*
18 *pupil's educational and mental health treatment needs in*
19 *a manner that is cost effective for both public agencies,*
20 *subject to the requirement that the placement be in the*
21 *least restrictive environment.*

22 *(b) A local education agency or individualized*
23 *education program team shall initiate a referral of a child*
24 *with a disability who is suspected of needing mental*
25 *health services. A referral shall be made to a county*
26 *mental health department when a child meets the*
27 *criteria in subdivision (c), upon verification that all*
28 *documentation required in subdivision (d) is provided in*
29 *a timely manner.*

30 *(c) A child with a disability may be referred to a*
31 *county mental health department to determine the need*
32 *for mental health services if the child meets all of the*
33 *following criteria:*

34 *(1) The child has been assessed by school personnel in*
35 *accordance with Article 2 (commencing with Section*
36 *56320) of Chapter 4 of Part 30 of the Education Code.*
37 *Local education agencies and county mental health*
38 *departments shall work collaboratively to ensure that*
39 *assessments performed prior to referral are as useful as*
40 *possible to the county mental health department in*



1 *determining the need for mental health services and the*
2 *level of services needed.*

3 (2) *The local education agency has obtained written*
4 *parental consent for the referral of the child to the county*
5 *mental health department, for the release and exchange*
6 *of information between the local education agency and*
7 *the county mental health department, and for the*
8 *observation of the child by mental health professionals in*
9 *an educational setting.*

10 (3) *The child has emotional or behavioral*
11 *characteristics, which are observed by educational staff in*
12 *a variety of educational and other settings, as appropriate,*
13 *that prevent the child from benefiting from special*
14 *education.*

15 (4) *The child's emotional or behavioral characteristics*
16 *are severe, as indicated by their rate of occurrence and*
17 *intensity, have an onset from age 30 months to 21 years,*
18 *and are associated with a condition that cannot be defined*
19 *solely as a behavioral disorder or a temporary adjustment*
20 *problem, and cannot be resolved with short-term*
21 *counseling.*

22 (5) *The local education agency has provided*
23 *counseling, psychological, or guidance services to the*
24 *child pursuant to Section 56363 of the Education Code,*
25 *and the individualized education program team has*
26 *determined that the services do not meet the child's*
27 *educational needs, or, in cases where these services were*
28 *clearly inappropriate, the individualized education*
29 *program team has documented which of these services*
30 *were considered and why they were determined to be*
31 *inappropriate.*

32 (d) *When referring a child with a disability to a county*
33 *mental health department in accordance with*
34 *subdivision (b), the local education agency or the*
35 *individualized education program team shall provide the*
36 *following documentation:*

37 (1) *Copies of the current individualized education*
38 *program and all current assessment reports completed by*
39 *school personnel in all areas of suspected disabilities*



1 *pursuant to Article 2 (commencing with Section 56320)*
2 *of Chapter 4 of Part 30 of the Education Code.*

3 (2) *A copy of the parent's consent obtained as*
4 *provided in paragraph (2) of subdivision (c).*

5 (3) *A summary of the emotional or behavioral*
6 *characteristics of the child, including documentation that*
7 *the child meets the criteria set forth in paragraphs (3)*
8 *and (4) of subdivision (c).*

9 (4) *A description of the counseling, psychological, or*
10 *guidance services that have been provided to the child,*
11 *including the initiation, duration, and frequency of these*
12 *services, or an explanation of why a service was*
13 *considered for the child and determined to be*
14 *inappropriate.*

15 (e) *The procedures set forth in this section do not*
16 *apply to psychiatric emergencies or other situations*
17 *requiring immediate response. In these situations, a local*
18 *education agency may make referrals to other public*
19 *programs or private providers, as appropriate.*

20 (f) *Referrals shall be made to the county mental health*
21 *department in which the child lives. The county mental*
22 *health department shall accept all referrals for mental*
23 *health assessments made pursuant to subdivision (b). If*
24 *a parent resides in another county, the county mental*
25 *health department in which the child lives shall*
26 *immediately contact the county mental health*
27 *department in which the parent resides, then do either*
28 *of the following, depending upon the preference of the*
29 *county in which the parent resides:*

30 (1) *Treat the referral as if the child's parent resides in*
31 *the county in which the child lives. In this case, the county*
32 *in which the parent resides shall be responsible for any*
33 *costs incurred by the county in which the child lives.*

34 (2) *Forward the referral without delay to the county*
35 *mental health department in the county in which the*
36 *parent resides. The receiving county shall accept*
37 *referrals made pursuant to subdivision (b) and this*
38 *paragraph.*

39 (g) *Upon receipt of a referral pursuant to subdivision*
40 *(b), the county mental health department shall obtain*



1 *the parent's written consent for an assessment of the child*
2 *and immediately contact the local education agency or*
3 *the individualized education program team. The date of*
4 *the next individualized education program team meeting*
5 *shall be established jointly and occur within 50 days from*
6 *the date that a county mental health department obtains*
7 *the parental consent to assess the child in accordance*
8 *with Section 56344 of the Education Code.*

9 *(h) Whenever a pupil who has been receiving mental*
10 *health services pursuant to an individualized education*
11 *program transfers into a school district from a school*
12 *district in another county, the responsible local education*
13 *administrator or individualized education program team*
14 *shall refer the child to the county mental health*
15 *department to determine appropriate mental health*
16 *services. The county mental health department director*
17 *or his or her designee shall ensure that the child is*
18 *provided interim mental health services, as specified in*
19 *the existing individualized education program pursuant*
20 *to Section 56325 of the Education Code for a period not*
21 *to exceed 30 days, unless the parent or guardian agrees*
22 *otherwise. An individualized education program team,*
23 *which shall include a representative of the county mental*
24 *health department, shall be convened by the local*
25 *education agency to review the interim services and*
26 *make a determination of services within 30 days of the*
27 *child's transfer.*

28 *SEC. 3. Notwithstanding Section 17610 of the*
29 *Government Code, if the Commission on State Mandates*
30 *determines that this act contains costs mandated by the*
31 *state, reimbursement to local agencies and school*
32 *districts for those costs shall be made pursuant to Part 7*
33 *(commencing with Section 17500) of Division 4 of Title*
34 *2 of the Government Code. If the statewide cost of the*
35 *claim for reimbursement does not exceed one million*
36 *dollars (\$1,000,000), reimbursement shall be made from*
37 *the State Mandates Claims Fund.*

38 *Notwithstanding Section 17580 of the Government*
39 *Code, unless otherwise specified, the provisions of this act*



1 *shall become operative on the same date that the act*
2 *takes effect pursuant to the California Constitution.*

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