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Summary: Mental Health in Schools Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

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**VERSIONS OF THIS BILL**

[12/05/2024](https://www.scstatehouse.gov/sess126_2025-2026/prever/3478_20241205.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE “MENTAL HEALTH IN SCHOOLS ACT” BY ADDING SECTION 59‑1‑373 SO AS TO ESTABLISH THE GOAL OF OFFERING ANNUAL MENTAL HEALTH SCREENINGS TO STUDENTS IN GRADES SIX THROUGH TWELVE TO REDUCE RISKS RELATED TO STUDENTS’ UNMET MENTAL AND BEHAVIORAL HEALTH NEEDS AND IMPROVE PHYSICAL AND MENTAL HEALTH OUTCOMES FOR YOUNG PEOPLE IN THIS STATE, TO CREATE THE MENTAL HEALTH SCREENING PROGRAM IN THE STATE DEPARTMENT OF EDUCATION AND TO PROVIDE THE PURPOSE AND RESPONSIBILITIES OF THE PROGRAM, TO PROVIDE OTHER SERVICES AND REQUIREMENTS CONCERNING MENTAL AND BEHAVIORAL HEALTH SERVICES TO STUDENTS, AND TO PROVIDE RELATED RESPONSIBILITIES OF THE STATE DEPARTMENT OF HEALTH AND HUMAN SERVICES, AMONG OTHER THINGS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Mental Health in Schools Act.”

SECTION 2. Article 5, Chapter 1, Title 59 of the S.C. Code is amended by adding:

 Section 59‑1‑373. (A)(1) It is a goal of this State to offer annual mental health screenings to students in grades six through twelve to reduce risks related to students’ unmet mental and behavioral health needs and improve physical and mental health outcomes for young people.

 (2) The Mental Health Screening Program is created in the State Department of Education to identify potential risks related to unmet mental or behavioral health needs of students in grades six through twelve annually and to provide a student who has a mental or behavioral health concern with resources and referrals to address the mental or behavioral needs of the student.

 (3) The department shall consult with the Department of Health and Human Services and Department of Mental Health to make recommendations for the purposes of identifying priority counties and school districts for the implementation of the program. The department shall collaborate with the Department of Mental Health to prioritize school districts that have a high percentage of students enrolled in Medicaid and a high number of referrals to the State’s mental health crisis line. The department shall target expansion by twenty percent annually until all eligible schools are participating.

 (4) An eligible school shall administer an annual mental health screening. Any school receiving public funding may be a participating school. The department shall promulgate regulations necessary to implement and administer the provisions of this section.

 (5) A mental health screening must:

 (a) be administered at the participating school in the manner prescribed by the department;

 (b) be administered by a screener who meets the requirements established by the department;

 (c) use an evidence‑based screening tool approved by the department to administer the screening;

 (d) be made available in a student’s native language; and

 (e) be deliverable in formats as necessary to be accessible to all students.

 (6) A participating school shall provide written notice to a student’s parent or guardian within the first two weeks of the school year that a mental health screening will be administered at the school. The written notice must include:

 (a) the purpose of the screening;

 (b) the screener to administer the screening;

 (c) the date and time the mental health screening is scheduled;

 (d) a statement that the parent or guardian will be notified following any mental health screening if additional resources or referrals are necessary to address the student’s mental health concerns;

 (e) a statement notifying the parent or guardian that he has the right to opt the child out of participating in the mental health screening, and that provides information on how to opt out, and the timeframe for opting out, which must be a time frame of at least fourteen days; and

 (f) any other information determined necessary by the department or participating school.

 (7) A parent or guardian has the authority to opt out of their child’s participation in the mental health screening in a non‑onerous manner prescribed by the participating school, such as signing an opt‑out form.

 (8) Each participating school or district shall publish on its website a description of the evidence‑based screening tool that will be used, the parental or guardian consent form, policies and procedures related to the administration of mental health screenings, and other materials related to the mental health screening performed pursuant to this section. Completed mental health screenings may never be published and use of the collected information must meet the requirements set forth in item (5).

 (9) For each mental health screening administered, the screener shall:

 (a) use an evidence‑based, mental health screening tool to assess the mental health and well‑being of students;

 (b) inform the student of the circumstances in which confidentiality will not be maintained prior to administering the screening;

 (c) review all results and determine which students may need additional follow‑up or mental health services within twenty‑four hours after a student completes the mental screening;

 (d) if, after reviewing the mental health screening results, the screener believes a student is at risk of physical self‑harm, harming others, or is in need of immediate attention from a mental health professional, the screener shall immediately notify the student’s parents or guardian and school, pursuant to preestablished process with the school or school district. After receiving such notification, the school shall follow the school’s crisis response policy. This information must not be used to prevent a student from continuing to attend school, except as permitted by existing school policy;

 (e) if, after reviewing the mental health screening results, the screener believes a student may have a mental health concern and is need of additional mental health services, the screener shall notify the student’s parent or guardian within forty‑eight hours after the student completes the mental health screening and provide the student and the parent or guardian with information on behavioral health resources and services and information about the rights of students with disabilities; and

 (f) if, at any time during the mental health screening the screener believes that a student is a victim of child abuse or neglect, or that the child’s home situation presents an immediate serious threat of harm to the child, the screener shall report the known or suspected child abuse or neglect to the Department of Social Services and local law enforcement pursuant to state law and district or school policy.

 (10) A participating school entity shall annually report to the department by the end of the school year in which a screening is administered, the following:

 (a) compliance with the criteria of the program;

 (b) total number and percentage of students who have been screened, and nonidentifying demographic information relating to those students;

 (c) total number and percentage of students who were opted‑out of screening, and nonidentifying demographic information relating to those students;

 (d) total number and percentage of students who received follow‑up or referrals due to screening results, and nonidentifying demographic information relating to those students; and

 (e) identification of any challenges or needs related to capacity for or ability to provide needed mental health services and supports to students with mental health challenges.

 (11) Individually identifiable information collected for, during, or after the mental health screening process is subject to state and federal privacy laws and regulations.

 (12) Staff or a participating school entity or selected vendor, or any person involved in the mental health screening process or with access to records or information involving the mental health screening process, shall not disclose records or information collected as part of a screening without written consent of the student, if he is over eighteen years of age, or the parent, if he is less than eighteen years of age.

 (B) Mental or behavioral health as reason for an excused absence:

 (1) Beginning with the 2026‑2027 School Year, the department shall adopt rules that categorize an absence for a mental health behavioral reason as an excused absence due to illness, health condition, or medical appointment.

 (2) A student’s absence from school for a mental or behavioral health reason is a necessary and excused absence. Each school receiving public funding shall determine the maximum number of absences allowable under this section.

 (3) A student may not be penalized for an excused absence for the mental health or behavioral health of the student and must be given the opportunity to makeup any schoolwork missed during the excused absence.

 (4) After the second and subsequent excused absence for the mental health or behavioral health of the student, the student must be referred to a school‑based or other mental or behavioral health specialist.

 (5) The department shall provide the technical ability for all schools receiving public funding to code and create reports related to these absences.

 (6) For purposes of this section, “excused absence” means a full school day and does not require a medical note or doctor’s note.

 (C) Mental health intervention grant program:

 (1) Within ninety days of the effective date of this section, the department shall issue guidance and best practices for the delivery of evidence‑based mental health intervention services and supports for students in grades six through twelve and mental health training for grade six through twelve educators, including identifying mechanisms to expand evidence‑based mental health intervention services and supports through federal funding.

 (2) Subject to legislative appropriations, there is created the Mental Health Intervention Grant Program within the State Department of Education. The purpose of the program is to distribute grant funding to local education agencies to implement evidence‑based mental health interventions and preventative interventions that the department approves. The department may promulgate regulations for such program, including that:

 (a) a local education agency may apply for a grant, and if awarded the grant, shall use the grant money to implement evidence‑based mental health intervention supports;

 (b) a local education agency may make a request to the department to use grant money for purposes other than those specified by the department if the proposed use of the grant money will support or increase the effectiveness of an evidence‑based mental health intervention support program.

 (3) Reporting requirements: Before reporting deadlines established by the department, in each year in which a local education agency receives a grant pursuant to this section, the provider shall submit a report to the department that includes the information required by the department concerning student participation, interventions used, adjustments to local agency plans and the reasons for making the adjustments, how program grants were used, criteria for placing students in an intervention program, the impact or student outcomes, and whether the program will continue for the following school year and, if not, the reason for the discontinuation.

 (D) Medicaid coverage for school‑based mental health services:

 (1) The Department of Health and Human Services shall provide Medicaid reimbursement, to the extent permitted by federal law, for all medically necessary mental or behavioral health services, assessments, and evaluations provided in a school setting to any student enrolled in Medicaid.

 (2) The Department of Health and Human Services shall:

 (a) amend the Medicaid state plan, as necessary, to provide reimbursement for the mental and behavioral health services and evaluations described in item (1);

 (b) ensure inclusion of all Medicaid‑allowable licensed or credentialed school mental health providers; and

 (c) upon obtaining federal approval, Department of Health and Human Services shall update its regulations and provider manuals to reflect the changes to the program and shall provide comprehensive training to local education agencies; and

 (d) notify the Governor and minority and majority leadership of the House of Representatives and the Senate of:

 (i) submission of a State Plan amendment to the Centers for Medicare and Medicaid Services (CMS) for school‑based services;

 (ii) receipt of approval from CMS for the State Plan amendment;

 (iii) submission of a Cost Allocation Plan amendment following approval of the State Plan amendment; and

 (iv) receipt of approval of the Cost Allocation Plan amendment.

 (3) Local education agencies shall receive federal funds received for school‑based services and these funds shall be reinvested to support school‑based mental health programs and services, with appropriate allowances to defray administrative costs if needed.

 (4) If before implementing this section, the Department of Health and Human Services determines a waiver or authorization from a federal agency is necessary for implementation of this section, the agency shall request the waiver or authorization.

 (E) The State has a compelling interest in protecting the privacy and personal information collected in carrying out the purposes of this section. In administering the provisions of this section, state and local agencies, businesses, and any other entities shall only request data necessary to administer this section and retain it only as required to administer and achieve the purposes of this section. Any personal information collected or obtained in the course of administering this section shall be shared only in a manner that has been deidentified and aggregated to the greatest extent possible while still in compliance with federal eligibility requirements and every allowable effort shall be made to revoke access to such data should programs be eliminated or should there be an ineligibility determination. Personal information or data collected or obtained in the course of administering this section shall not be otherwise disclosed without the informed consent of the individual, except to comply with a judicial order or subpoena. Personal information or data may be considered deidentified if it cannot reasonably be used to infer information about, or otherwise be linked to, a particular individual or household.

SECTION 3. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 4. This act takes effect upon July 1, 2026.

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