

**SB 326 (Eggman) The Behavioral Health Services Act
As Amended September 5, 2023
(in print on September 4)**

Summary of Amendments

- **Creates BHSA Revenue Stability Workgroup.** Sec. 97 (adds WIC 5892.3)
 - To commence no later than June 30, 2024.
 - The workgroup to develop/recommend solutions to reduce BHSA revenue volatility and to propose appropriate prudent reserve levels to support the sustainability of county programs and services.
 - CalHHS Agency and DHCS to jointly convene and lead the workgroup.
 - Members to include representatives from the following entities:
 - BHSOAC (Commission)
 - LAO
 - CBHDA
 - CSAC, including both urban and rural county representatives.
 - Authorizes DOF to consult with the workgroup to provide TA.
 - Requires the workgroup to review and analyze current and historical revenues generated pursuant to BHSA and current and historical prudent reserve levels to develop recommendations.
 - Requires CalHHS and DHCS to submit a report that includes its recommendations to the Legislature and Governor on or before June 30, 2025.
 - Workgroup may meet as often as necessary, as determined by members of the workgroup, until disbanded upon submission of the report.
 - Specifies prudent reserve requirements may be changed, and requirements to mitigate BHSA revenue volatility and improve fiscal stability may be developed, based upon recommendations made by the BHSA Revenue Stability Workgroup.

- **Establishes the BHSA Innovation Partnership Fund.** Sec. 58 (WIC 5845.1)
 - Grant program to be administered by the BHSOAC (Commission) for grants to private, public, and nonprofit providers to promote development of innovative BH programs and practices to improve programs for specified groups and meet statewide BHSA goals.
 - Commission to consult with CalHHS/DHCS on allowable uses of funds.
 - If used for population-based prevention, Commission to consult with DPH, or HCAI for workforce innovations.
 - Commission to submit report to Legislature by 1/1/2030, and every 3 years thereafter.
 - **FUNDING:** To be funded at “a maximum of \$20 million deposited into the fund annually” for FY 2026-27 to 2030-31. Thereafter, funds to be determined through annual budget act.
 - Funding to be taken off the top from total BHSA funds (similar to statewide 3% workforce and 4% pop-based prevention allocations, before county allocations)

- **Limited Expansion/Revisions to Housing Interventions.** Sec. 42 (WIC 5830)
 - Revises eligibility provisions to remove direct reference to SUD to instead specify:
 - “Eligible children and youth, as defined in Section 5892.”
 - “Eligible adults and older adults, as defined in Section 5892.”
 - New definition of eligible children/youth and adults in Sec. 5892 – see below, which still includes indirect reference to those with moderate or severe SUD.

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- Requires housing interventions to comply with Housing First requirements and specifies may include “recovery housing” as defined by HUD.
- Specifies housing interventions shall not discriminate against or deny access to housing for individuals using medication for addiction treatment or other authorized medications.
- Specifies capital development projects may include affordable housing (which includes supportive housing as defined in HSC 50675.14).
- Adds project-based housing assistance, including master leasing of project-based housing, as eligible county program.
- Do not see an expansion for provision of direct onsite and supportive services as counties have requested.

- **Expands/Revises Early Intervention Program.** Sec. 49 (WIC 5840) / Sec. 54 (WIC 5840.7)
 - Revises eligibility provisions to remove direct reference to SUD.
 - Adds requirement that each county’s early intervention (EI) program be designed to reduce disparities in behavioral health.
 - Adds requirement that EI program component of outreach also include higher education.
 - Adds community-defined evidence practices (CDEP) as a required component of EI programs.
 - Authorizes provision of BH services under this section to specified population of children and youth:
 - Children and youth at high risk for a BH disorder due to experiencing trauma, as evidenced by scoring in the high-risk range under a trauma screening tool such as an adverse childhood experiences (ACEs) screening tool, involvement in the child welfare system or juvenile justice system or experiencing homelessness.
 - Children and youth in populations with identified disparities in BH outcomes.
 - Specifies DHCS may require a county to implement specific CDEPs and adds a definition of CDEP.
 - On priorities for use of EI funds as established by DHCS and BHSOAC:
 - Adds outreach/engagement to target early childhood age 0-5 years and allows partnerships with CBOs.
 - Adds strategies targeting the mental health needs of eligible children and youth who are 0 to 5 years, including, but not limited to, infant and early childhood mental health consultation.

- **Changes to BHSOAC/Commission.** Sec. 57 (WIC 5845)
 - Revises statutory description of Commission’s role to specify “advise the Governor and the Legislature, pursuant to the BHSA and related components of CA’s behavioral health system. For this purpose, the commission shall collaborate with the CalHHS Agency, its departments and other state entities.”
 - Increases the Commission’s membership from 24 to 27 voting members, to add:
 - A person with knowledge/experience in CDEP and reducing BH disparities.
 - A representative of a children and youth organization.
 - A veteran or a representative of a veterans’ organization.
 - Specifies a BH director may be current or former, and subject to Governor’s appointment.

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- Authorizes the Commission to “make reasonable requests for data and information to DHCS, HCAI, DPH, or other state and local entities that receive BHSA funds.” Requires entities to respond in a timely manner and provide info and data in their possession that the commission deems necessary for the purposes of carrying out its responsibilities.
- **Expanded/Required Use of BHSA to Include Eligible Children Aged 0-5 and All Foster Youth.** Sec. 94 (WIC 5892)
 - Requires BHSA programs (housing interventions, FSP, BHSS, and innovative programs) to include services to address the needs of eligible children and youth, 0 to 5 years of age, inclusive, transition age youth, and foster youth.
- **Revisions to Allocation % Changes Between BHSA Categories.** Sec. 94 (WIC 5892)
 - Retains authority for a county to change the allocation percentages for housing interventions, FSP, and BHSS – **in summary, no significant changes from prior version, other than it now specifies a maximum % than can be taken from each category, up to the same total percentage.**
 - Transfers are still subject to DHCS approval – no new criteria or timelines added.
 - Approved allocation adjustments are still irrevocable during the three-year plan period, and counties are not allowed to adjust the allocation of funds in subsequent annual/intermittent updates to the plan.
 - For integrated plans covering 2026-2029, authorizes transfer of **up to 14% of total funds** allocated in a FY between one or more categories, but **may not decrease an allocation for any one category by more than 7% of total funds** allocated to the county in a FY.
 - For integrated plans covering 2029-2032, authorizes transfer of **up to 12% of total funds** allocated in a FY between one or more categories, but **may not decrease an allocation for any one category by more than 6% of total funds** allocated to the county in a FY.
 - For plan covering 2032-33 and subsequent integrated plans, authorizes transfer of **up to 10% of total funds** allocated in a FY between one or more categories, but **may not decrease an allocation for any one category by more than 5% of total funds** allocated to the county in a FY.
 - Specifies subcategory requirements must still be adhered to irrespective of such transfers.
- **Changes to Statewide Workforce Initiative.** Sec. 94 (WIC 5892)
 - Adds reference to retaining “county BH workforce” as part of the focus of the initiative. (This was a county request)
 - Authorizes a portion of the workforce initiative to focus on providing TA and support to county and contracted providers to maximize the use of peer support specialists.
- **Changes to State-Administered Population-Based Prevention.** Sec. 94 (5892)
 - Adds specificity to school-based prevention supports and programs and requires them to be provided at a school site or arranged for by a school on a schoolwide or classroom basis and shall not provide services/supports for individuals.

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- Adds early childhood population-based prevention programs for children 0 to 5 years of age, inclusive, to be provided in a range of settings.
- Adds non-supplantation language for support/services in CYBHI or other sources.
- **Changes to Eligibility – Definitions Added** – amendments generally do not appear to add the necessary fiscal protections that counties have requested with regard to ensuring services for SUD-only populations (outside of Medi-Cal mandate) are permissive.
 - **“Eligible children and youth”** means persons who are 25 years of age or under, including early childhood or transition age youth who do either of the following:
 - (i) Meet the criteria specified in subdivision (d) of Section 14184.402.
 - (ii) Have a substance use disorder, as defined in subdivision (c) of Section 5891.5.
 - (B) Eligible children and youth are not required to be enrolled in the Medi-Cal program.
 - **“Eligible adults and older adults”** means persons who are 26 years of age or older who do either of the following:
 - (i) Meet the criteria specified in subdivision (c) of Section 14184.402.
 - (ii) Have a substance use disorder, as defined in subdivision (c) of Section 5891.5.
 - (B) Eligible adults and older adults are not required to be enrolled in the Medi-Cal program.
- **Changes to Integrated Plan/Planning and Reporting.** Sec. 108 (WIC/new Chapter 3)
 - Requires a county to consider input and feedback into the plan provided by stakeholders, including, but not limited to, those with lived behavioral health experience, including peers and families.
 - Adds new required section to the integrated plan that describes how a county has considered the unique needs of LGBTQ+ youth, justice-involved youth, child welfare-involved, justice-involved adults, and older adults in the housing intervention program and FSP programs.
 - Adds additional stakeholders to the required planning process to include hospitals, homeless service provider community, and CBOs serving linguistically diverse constituents.
 - Specifies the metrics will be used to identify demographic and geographic disparities in the quality and efficacy of BH services and programs.
- **Provisions To the Ballot.** Sec. 117 (uncodified)
 - Still unclear which provisions are being put before the voters, however, it does appear that at least some provisions of the bond bill and MHSA reform will be linked.
 - Revised section now states:
 - *“Sections ____ of this act and Sections ____ of the Behavioral Health Infrastructure Bond Act, as set forth in Assembly Bill 531 of the 2023–24 Regular Session, shall be submitted to the voters at the March 5, 2024, statewide primary election, and shall appear on the ballot as a single measure, in accordance with provisions of the Government Code and the Elections Code governing the submission of a statewide measure to the voters.”*

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- **Changes to Timelines.** Revises operative date of several sections of the bill from July 1, 2025, to January 1, 2025, if amendments to MHSA are approved by voters in March 2024.
- **Other Amendments.** In addition to minor, technical, and conforming amendments:
 - Sec. 15 (WIC 5604) – adds requirement that at least one member of a community’s BH board must be an employee of a local educational agency (LEA).
 - Sec. 28 (WIC 5614) – adds representatives of LEAs to Compliance Advisory Committee.
 - Sec. 39 (WIC 5813.5) – removes direct references to “substance use disorder” for adults and instead inserts:
 - *“Services shall be available to eligible adults and older adults, as defined in Section 5892.”*
 - Sec. 43 (WIC 5831) – clarifies criteria for capital projects funded by BHSA.
 - Sec. 47 (WIC 5835.2) – adds a CA public school administrator and a representative knowledgeable in CDEP and reducing BH disparities to the membership of the advisory committee to the Commission, bringing its membership to 16.
 - Sec. 52 (WIC 5840.6) – definitions
 - Expands definition of “youth outreach and engagement” to include out of school youth vs. just transition age youth, and strategies/programs for youth that have had contact with the child welfare system (not just juvenile justice system).
 - Sec. 77 (WIC 5878.1) – removes reference to children with SUD, and instead specifies:
 - *“...ensure services will be provided to eligible children and youth, as defined in Section 5892.”*
 - Sec. 85 (WIC 5887) FSP – changes to eligibility (removal of direct SUD reference, but added definition in Sec. 5892) and add reference/definition to CDEPs.