HOUSE BILL 23-1003

A BILL FOR AN ACT

CONCERNING THE CREATION OF THE "SIXTH THROUGH TWELFTH GRADE MENTAL HEALTH SCREENING ACT", AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at http://leg.colorado.gov.)

The bill creates the sixth through twelfth grade mental health assessment program (program) administered by the department of public health and environment (department).

The bill allows any public school that serves any of grades 6 through 12 to participate in the program and requires a public school that
wants to participate in the program to notify the department.

The bill requires participating schools to provide written notice to the parents of students within the first 2 weeks of the start of the school year in order to allow parents to opt their child out of participating in the mental health assessment.

The bill specifies that a student 12 years of age or older may consent to participate in the mental health assessment even if the student's parent opts out.

Mental health assessments must be conducted in participating schools by a qualified provider. The bill requires the department to select a qualified provider to administer the mental health assessment and establishes requirements that the qualified provider must meet.

The bill requires a qualified provider to notify the student's parent under certain circumstances, if the qualified provider finds that additional treatment is needed after reviewing the student's mental health assessment results.

The bill authorizes the department to promulgate rules as necessary to implement and administer the program.

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Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, add part 20 to article 20.5 of title 25 as follows:

PART 20

SIXTH THROUGH TWELFTH GRADE MENTAL HEALTH SCREENING ACT

25-20.5-2001. Short title. The short title of this part 20 is the "Sixth Through Twelfth Grade Mental Health Screening Act".

25-20.5-2002. Definitions. As used in this part 20, unless the context otherwise requires:

(1) "iMatter" means the temporary youth mental health services program, commonly referred to as "iMatter", created in section 27-60-109.

(2) "Mental health screening" means a brief, structured
QUESTIONNAIRE COMPLETED BY A PARTICIPATING STUDENT THAT IS USED
FOR EARLY IDENTIFICATION OF A MENTAL HEALTH CONCERN, WHICH
CONCERN MAY BE EITHER VALIDATED OR REFUTED UPON REVIEW BY A
SUBJECT MATTER EXPERT.

(3) "PARENT" MEANS A CHILD'S BIOLOGICAL PARENT, ADOPTIVE
PARENT, OR LEGAL GUARDIAN.

(4) "PARTICIPATING SCHOOL" MEANS A PUBLIC SCHOOL THAT
MEETS THE REQUIREMENTS STATED IN SECTION 25-20.5-2003 (2) AND
PARTICIPATES IN THE SIXTH THROUGH TWELFTH GRADE MENTAL HEALTH
SCREENING PROGRAM CREATED IN THIS PART 20.

(5) "PROGRAM" MEANS THE SIXTH THROUGH TWELFTH GRADE
MENTAL HEALTH SCREENING PROGRAM CREATED IN THIS PART 20.

(6) "PUBLIC SCHOOL" MEANS A PUBLIC SCHOOL OF A SCHOOL
DISTRICT IN THIS STATE OR AN INSTITUTE CHARTER SCHOOL.

(7) "SCREENER" MEANS THE ENTITY SELECTED BY THE
DEPARTMENT PURSUANT TO THIS PART 20 TO CONDUCT THE MENTAL
HEALTH SCREENING.

25-20.5-2003. Sixth through twelfth grade mental health
screening program - created - rules. (1) There is created in the
DEPARTMENT THE SIXTH THROUGH TWELFTH GRADE MENTAL HEALTH
SCREENING PROGRAM TO IDENTIFY POTENTIAL RISKS RELATED TO UNMET
MENTAL OR EMOTIONAL HEALTH NEEDS OF STUDENTS IN GRADES SIX
THROUGH TWELVE AND TO PROVIDE A STUDENT WHO HAS A MENTAL OR
EMOTIONAL HEALTH CONCERN WITH RESOURCES AND REFERRALS TO
ADDRESS THE STUDENT'S MENTAL OR EMOTIONAL HEALTH CONCERNS.

(2) A PUBLIC SCHOOL MAY PARTICIPATE IN THE PROGRAM
PURSUANT TO THIS PART 20 IF THE PUBLIC SCHOOL SERVES ANY OF GRADES
SIX THROUGH TWELVE AND:

(a) LACKS A SCHOOL-BASED HEALTH CENTER;

(b) HAS FEWER THAN THE RECOMMENDED NUMBER OF SCHOOL
PSYCHOLOGISTS BASED ON THE RECOMMENDED STUDENT-TO-SCHOOL
PSYCHOLOGIST RATIO; OR

(c) HAS A HIGH RISK OF STUDENT SUICIDE AMONG ITS STUDENT
POPULATION BASED ON DATED RESULTS FROM THE HEALTHY KIDS
COLORADO SURVEY OR ANOTHER DATA MEASURE.

(3) TO PARTICIPATE IN THE PROGRAM, A PUBLIC SCHOOL MUST
NOTIFY THE DEPARTMENT, IN THE MANNER PRESCRIBED BY THE
DEPARTMENT, BEFORE MAY 1 IN THE YEAR BEFORE THE SCHOOL YEAR
THAT THE PUBLIC SCHOOL WANTS TO BEGIN PARTICIPATION.

(4) A PARTICIPATING SCHOOL SHALL PROVIDE WRITTEN NOTICE TO
A STUDENT'S PARENT WITHIN THE FIRST TWO WEEKS OF THE SCHOOL YEAR
THAT A MENTAL HEALTH SCREENING WILL BE CONDUCTED AT THE SCHOOL.
THE WRITTEN NOTICE MUST INCLUDE:

(a) THE PURPOSE FOR THE SCREENING;

(b) THE SCREENER SELECTED TO CONDUCT THE MENTAL HEALTH
SCREENING;

(c) THE DATE AND TIME THE MENTAL HEALTH SCREENING IS
SCHEDULED;

(d) A STATEMENT THAT THE PARENT WILL BE NOTIFIED FOLLOWING
ANY MENTAL HEALTH SCREENING IF ADDITIONAL RESOURCES OR SERVICE
REFERRALS ARE NECESSARY TO ADDRESS THE STUDENT'S MENTAL HEALTH
CONCERN. THIS STATEMENT MUST ALSO STATE THAT THIS NOTIFICATION
WILL ONLY BE PROVIDED TO THE PARENTS OF A CHILD TWELVE YEARS OF
AGE OR OLDER IF THE CHILD CONSENTS TO THE NOTIFICATION.
(e) A STATEMENT NOTIFYING THE PARENT THAT THE PARENT HAS THE RIGHT TO OPT THE PARENT’S CHILD OUT OF PARTICIPATION IN THE MENTAL HEALTH SCREENING AND THAT PROVIDES INFORMATION ON HOW TO OPT OUT AND THE TIME FRAME FOR OPTING OUT;

(f) A STATEMENT THAT A CHILD TWELVE YEARS OF AGE OR OLDER MAY CONSENT TO THE MENTAL HEALTH SCREENING PURSUANT TO SECTION 12-245-203.5 DESPITE THE PARENT’S REQUEST TO OPT OUT; AND

(g) ANY OTHER INFORMATION DETERMINED NECESSARY BY THE DEPARTMENT OR PARTICIPATING SCHOOL.

(5) UNLESS A STUDENT CONSENTS TO THE MENTAL HEALTH SCREENING PURSUANT TO SECTION 12-245-203.5, A PARENT OR GUARDIAN HAS THE AUTHORITY TO OPT OUT OF THEIR CHILD’S PARTICIPATION IN THE MENTAL HEALTH SCREENING IN THE MANNER PRESCRIBED BY THE PARTICIPATING SCHOOL.

(6) A MENTAL HEALTH SCREENING MUST:

(a) BE CONDUCTED AT THE PARTICIPATING SCHOOL IN THE MANNER PRESCRIBED BY THE DEPARTMENT;

(b) BE CONDUCTED BY A SCREENER THAT MEETS THE REQUIREMENTS OF SUBSECTION (8) OF THIS SECTION;

(c) UTILIZE AN EVIDENCE-BASED SCREENING TOOL TO CONDUCT THE MENTAL HEALTH SCREENING;

(d) BE MADE AVAILABLE IN A STUDENT’S NATIVE LANGUAGE; AND

(e) BE REPRODUCIBLE IN A DIGITAL FORMAT AND IN ANY OTHER FORMAT NECESSARY TO BE ACCESSIBLE TO ALL STUDENTS.

(6.5) EACH PARTICIPATING PUBLIC SCHOOL SHALL PUBLISH ON ITS WEBSITE THE MENTAL HEALTH SCREENING ASSESSMENT FORM OR OTHER DOCUMENT PROVIDED TO STUDENTS, THE PARENTAL CONSENT FORM,
POLICIES AND PROCEDURES RELATED TO PERFORMING THE MENTAL HEALTH SCREENING, AND ANY OTHER MATERIALS RELATED TO THE MENTAL HEALTH SCREENING PERFORMED PURSUANT TO THIS PART 20. THIS SUBSECTION (6.5) DOES NOT REQUIRE THE PUBLICATION OF COMPLETED MENTAL HEALTH SCREENING ASSESSMENTS.

(7) PRIOR TO CONDUCTING A MENTAL HEALTH SCREENING, THE SCREENER MUST INFORM THE STUDENT OF THE CIRCUMSTANCES IN WHICH CONFIDENTIALITY WILL NOT BE MAINTAINED.

(8) THE DEPARTMENT SHALL SELECT A SCREENER TO CONDUCT THE MENTAL HEALTH SCREENINGS THROUGH A REQUEST FOR PROPOSALS PROCESS ESTABLISHED BY THE DEPARTMENT. AT A MINIMUM, THE SCREENER SHALL:

(a) NOT PROVIDE DIRECT MENTAL HEALTH SERVICES;

(b) HAVE THE INFRASTRUCTURE AND ABILITY TO OPERATE STATEWIDE;

(c) HAVE THE ABILITY TO COLLECT AND REPORT DATA FROM THE MENTAL HEALTH SCREENING;

(d) HAVE EXPERIENCE DELIVERING AND MANAGING A STATEWIDE MENTAL HEALTH SCREENING PROGRAM WITH RELIABLE AND CONSISTENT PERFORMANCE;

(e) BE TRAUMA-INFORMED; AND

(f) COMPLY WITH ANY OTHER REQUIREMENTS THE DEPARTMENT DETERMINES NECESSARY.

(9) AFTER A MENTAL HEALTH SCREENING IS CONDUCTED, THE SCREENER SHALL REVIEW ALL RESULTS AND DETERMINE WHICH STUDENTS NEED ADDITIONAL MENTAL HEALTH SERVICES WITHIN TWENTY-FOUR HOURS AFTER A STUDENT COMPLETES THE MENTAL HEALTH SCREENING.
(10) (a) If, after reviewing the mental health screening results, the screener believes a student is at risk of attempting suicide, 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 and school. After receiving such notification, the school shall follow the school's crisis response policy and must immediately notify the school district's Section 504 coordinator and special education director. This information must not be used to prevent a student from continuing to attend school; except that a school shall adhere to Section 504 and disciplinary protections pursuant to the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400, as amended, such as requiring that the student participate in a threat or risk assessment before returning to school.

(b) If, after reviewing the mental health screening results, the screener believes a student has a mental health concern, including, but not limited to, those stated in subsection (10)(a) of this section, and is in need of additional mental health services, the screener shall notify the student's parent within forty-eight hours after the student completes the mental health screening and provide the student's parent with information on resources and services provided through iMatter, including how to apply for services through iMatter, and information about the rights of students with disabilities pursuant to Section 504 of the Federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as amended; and the federal "Individuals
WITH DISABILITIES EDUCATION ACT", 20 U.S.C. sec. 1400, as amended, IF:

(I) THE STUDENT IS UNDER TWELVE YEARS OF AGE; OR

(II) THE STUDENT IS TWELVE YEARS OF AGE OR OLDER AND CONSENTS TO THE NOTIFICATION.

(c) If, after reviewing the mental health screening results, the screener believes a student has a mental health concern, including, but not limited to, those stated in subsection (10)(a) of this section, and is in need of additional mental health services, the screener shall refer the student to iMatter for mental health services within forty-eight hours after the student completes the mental health screening if the student is twelve years of age or older and does not consent to the notification pursuant to subsection (10)(b)(II) of this section.

(11) 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 student's school.

(12) Individually identifiable information collected for or by the screener is subject to the federal "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", Pub.L. 104-191, as amended. The screener is the custodian of all records associated with mental health screenings. The screener shall not disclose records or information without written consent from the student, if the student is over eighteen years of age;

(13) THE DEPARTMENT SHALL PROMULGATE RULES PURSUANT TO ARTICLE 4 OF TITLE 24 AS NECESSARY TO IMPLEMENT AND ADMINISTER THE MENTAL HEALTH SCREENING CREATED BY THIS SECTION.

(14) WITHIN SIX MONTHS AFTER CONDUCTING A MENTAL HEALTH SCREENING AT A SCHOOL, THE SCREENER SHALL MAKE DISAGGREGATED DATA CONCERNING THE RESULTS OF THE MENTAL HEALTH SCREENING AVAILABLE TO THE SCHOOL.

(15) A STUDENT WHO IS HOME-SCHOOLED BUT WHO PARTICIPATES IN EXTRACURRICULAR ACTIVITIES OR ATHLETIC PROGRAMS AT A PARTICIPATING SCHOOL IS EXEMPT FROM THE MENTAL HEALTH ASSESSMENT PURSUANT TO THIS PART 20. NOTHING IN THIS SUBSECTION EXEMPTS A STUDENT WHO IS HOME-SCHOOLED FROM ANY OTHER RIGHTS PROVIDED BY LAW.
SECTION 2. Appropriation. For the 2023-24 state fiscal year, $475,278 is appropriated to the department of public health and environment for use by the prevention services division. This appropriation is from the general fund and is based on an assumption that the department will require an additional 2.0 FTE. To implement this act, the division may use this appropriation for the sixth through twelfth grade mental health assessment program related to children and youth health.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.