

CHAPTER 363

HUMAN SERVICES - BEHAVIORAL HEALTH

HOUSE BILL 23-1003

BY REPRESENTATIVE(S) Michaelson Jenet, Amabile, Bacon, Bird, Boesenecker, Brown, deGruy Kennedy, Dickson, Duran, Epps, Froelich, Garcia, Gonzales-Gutierrez, Herod, Jodeh, Joseph, Kipp, Lieder, Lindsay, Lindstedt, Lukens, Mabrey, McCormick, McLachlan, Ortiz, Parenti, Ricks, Story, Titone, Valdez, Velasco, Vigil, Weissman, Willford, Young, McCluskie, English, Marshall, Sharbini, Sirota, Snyder;
 also SENATOR(S) Cutter, Bridges, Buckner, Coleman, Exum, Fields, Gonzales, Hinrichsen, Jaquez Lewis, Kolker, Marchman, Moreno, Priola, Rodriguez, Sullivan, Winter F., Zenzinger, Fenberg.

AN ACT

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

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

SECTION 1. In Colorado Revised Statutes, **add** part 9 to article 50 of title 27 as follows:

**PART 9
 SIXTH THROUGH TWELFTH GRADE MENTAL HEALTH
 SCREENING ACT**

27-50-901. Short title. THE SHORT TITLE OF THIS PART 9 IS THE "SIXTH THROUGH TWELFTH GRADE MENTAL HEALTH SCREENING ACT".

27-50-902. Definitions. AS USED IN THIS PART 9, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "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.

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

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(3) "PARTICIPATING SCHOOL" MEANS A PUBLIC SCHOOL THAT MEETS THE REQUIREMENTS STATED IN SECTION 27-50-903 (2) AND PARTICIPATES IN THE SIXTH THROUGH TWELFTH GRADE MENTAL HEALTH SCREENING PROGRAM CREATED IN THIS PART 9.

(4) "PROGRAM" MEANS THE SIXTH THROUGH TWELFTH GRADE MENTAL HEALTH SCREENING PROGRAM CREATED IN THIS PART 9.

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

(6) "SCREENER" MEANS THE ENTITY SELECTED BY THE BHA PURSUANT TO THIS PART 9 TO CONDUCT THE MENTAL HEALTH SCREENING.

27-50-903. Sixth through twelfth grade mental health screening program - created - rules. (1) THERE IS CREATED IN THE BHA 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) THE BHA SHALL CONSULT WITH THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, THE COLORADO DEPARTMENT OF HUMAN SERVICES, AND THE COLORADO DEPARTMENT OF EDUCATION TO MAKE RECOMMENDATIONS FOR THE PURPOSES OF IDENTIFYING PRIORITY COUNTIES AND DISTRICTS FOR THE IMPLEMENTATION OF THE PROGRAM. A PUBLIC SCHOOL RECOMMENDED FOR THE PROGRAM MUST BE A PUBLIC SCHOOL THAT SERVES ANY OF GRADES SIX THROUGH TWELVE.

(3) TO PARTICIPATE IN THE PROGRAM, A PUBLIC SCHOOL MUST NOTIFY THE BHA, IN THE MANNER PRESCRIBED BY THE BHA, 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.

(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, WHICH MUST BE A TIME FRAME OF AT LEAST FOURTEEN DAYS; AND

(f) ANY OTHER INFORMATION DETERMINED NECESSARY BY THE BHA OR PARTICIPATING SCHOOL.

(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 BHA;

(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 QUESTIONNAIRE 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 9. THIS SUBSECTION (6.5) DOES NOT REQUIRE THE PUBLICATION OF COMPLETED MENTAL HEALTH SCREENINGS.

(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 BHA SHALL SELECT A SCREENER TO CONDUCT THE MENTAL HEALTH SCREENINGS THROUGH A REQUEST FOR PROPOSALS PROCESS ESTABLISHED BY THE BHA. 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 BHA 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.

(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 AND THE STUDENT'S PARENT WITH INFORMATION ON BEHAVIORAL HEALTH RESOURCES AND SERVICES 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.

(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 COUNTY DEPARTMENT OF HUMAN OR SOCIAL SERVICES OR A LOCAL LAW ENFORCEMENT AGENCY.

(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 MAY NOT DISCLOSE RECORDS OR INFORMATION WITHOUT WRITTEN CONSENT FROM THE STUDENT, IF THE STUDENT IS OVER EIGHTEEN YEARS OF AGE, OR THE STUDENT'S PARENT. ALL PARTIES SUBJECT TO THE REQUIREMENTS OF THIS

SECTION SHALL COMPLY WITH ALL APPLICABLE REQUIREMENTS OF THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101, ET SEQ., AS AMENDED; SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 794, AS AMENDED; AND TITLE VI OF THE FEDERAL "CIVIL RIGHTS ACT OF 1964", AS AMENDED.

(13) THE COMMISSIONER 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 DE-IDENTIFIED DATA CONCERNING THE RESULTS OF THE MENTAL HEALTH SCREENING AVAILABLE TO THE SCHOOL IN ACCORDANCE WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L. 104-191, AS AMENDED.

(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 SCREENING PURSUANT TO THIS PART 9. NOTHING IN THIS SUBSECTION (15) EXEMPTS A STUDENT WHO IS HOME-SCHOOLED FROM ANY OTHER RIGHTS PROVIDED BY LAW.

(16) THE BHA SHALL WORK WITH THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING TO IDENTIFY A PROCESS FOR REIMBURSEMENT FOR SCREENINGS OR RELATED SERVICES PROVIDED TO ANY STUDENT COVERED BY THE STATE MEDICAL ASSISTANCE PROGRAM, TO THE GREATEST EXTENT ALLOWABLE PURSUANT TO STATE AND FEDERAL REQUIREMENTS.

SECTION 2. In Colorado Revised Statutes, 12-245-217, **amend** (2)(g) and (2)(h); and **add** (2)(i) as follows:

12-245-217. Scope of article - exemptions. (2) This article 245 does not apply to:

(g) Students who are enrolled in a school program and are practicing as part of a school practicum or clinical program; ~~or~~

(h) A professional practicing auricular acudetox in accordance with section 12-245-233; ~~or~~

(i) SCREENERS CONDUCTING SCREENINGS PURSUANT TO THE SIXTH THROUGH TWELFTH GRADE MENTAL HEALTH SCREENING PROGRAM CREATED IN SECTION 27-50-903.

SECTION 3. Appropriation. For the 2023-24 state fiscal year, \$475,278 is appropriated to the department of human services for use by the behavioral health administration. This appropriation is from the general fund and is based on an assumption that the behavioral health administration will require an additional 2.0 FTE. To implement this act, the behavioral health administration may use this appropriation for the sixth through twelfth grade mental health screening program related to community-based mental health services.

SECTION 4. 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.

Approved: June 5, 2023