

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2022 Session of 2022

INTRODUCED BY KAUFER, SCHLOSSBERG, HENNESSEY, HILL-EVANS, PICKETT, GUENST, FARRY AND CIRESI, MARCH 9, 2022

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 25, 2022

AN ACT

1 Amending the act of March 10, 1949 (P.L.30, No.14), entitled "An
2 act relating to the public school system, including certain
3 provisions applicable as well to private and parochial
4 schools; amending, revising, consolidating and changing the
5 laws relating thereto," in preliminary provisions, providing
6 for school-based behavioral health assistance SCHOOL-BASED <--
7 MENTAL HEALTH SERVICES PILOT GRANT PROGRAM.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. The act of March 10, 1949 (P.L.30, No.14), known
11 as the Public School Code of 1949, is amended by adding a
12 section to read:

13 ~~Section 130. School Based Behavioral Health Assistance. (a) <--~~
14 ~~A school entity may place a behavioral health representative~~
15 ~~under the supervision of the superintendent or other chief~~
16 ~~administrative officer of the school entity or a designee, who~~
17 ~~may communicate and interact with students at the school entity~~
18 ~~to provide social and mental health support assistance. The~~
19 ~~behavioral health representative may utilize any of the~~
20 ~~following:~~

1 ~~(1) Evidence based programs for students that provide:~~  
2 ~~(i) a positive school climate;~~  
3 ~~(ii) crisis management;~~  
4 ~~(iii) suicide prevention strategies; or~~  
5 ~~(iv) skills to communicate with peers and adults, manage~~  
6 ~~emotions, setting goals, establishing and maintaining positive~~  
7 ~~relationships and making responsible decisions that support~~  
8 ~~success in school and life.~~

9 ~~(2) Early intervention services for students to deal with~~  
10 ~~grief, trauma, anger, anxiety or sadness.~~

11 ~~(b) A school entity may have one or more behavioral health~~  
12 ~~representatives who:~~

13 ~~(1) May be stationed at more than one school in the school~~  
14 ~~entity.~~

15 ~~(2) Have met the requirements under sections 111, 111.1 and~~  
16 ~~1109(a) and 23 Pa.C.S. Ch. 63 Subch. C (relating to powers and~~  
17 ~~duties of department).~~

18 ~~(3) Are not employees of the school entity.~~

19 ~~(c) A school entity shall develop a policy and plan to~~  
20 ~~provide social and mental support services for all students.~~

21 ~~(d) A school entity shall enter into a memorandum of~~  
22 ~~understanding with the behavioral health assistance entity with~~  
23 ~~which the behavioral health representative is affiliated or~~  
24 ~~employed. The memorandum of understanding shall outline space,~~  
25 ~~supplies, equipment, cost responsibilities and student privacy~~  
26 ~~requirements. The memorandum of understanding shall be~~  
27 ~~supplemented or updated as necessary and shall specify the~~  
28 ~~following:~~

29 ~~(1) The name of the school entity and each school in which~~  
30 ~~the student communication and interaction will occur.~~

1 ~~(2) The name of the point of contact within the behavioral~~  
2 ~~health assistance entity that shall receive updates on the~~  
3 ~~activities of the behavioral health representative.~~

4 ~~(3) The name of and schedule for the behavioral health~~  
5 ~~representative.~~

6 ~~(4) The nature and extent of the ongoing communications~~  
7 ~~between the school entity and behavioral health assistance~~  
8 ~~entity.~~

9 ~~(5) Necessary procedures to address confidentiality, school~~  
10 ~~security and the safety of each student, behavioral health~~  
11 ~~representative and school superintendent or other chief~~  
12 ~~administrative officer of a school entity or their designee.~~

13 ~~(6) Any other provisions deemed necessary by the school~~  
14 ~~entity or behavioral health assistance entity.~~

15 ~~(e) The name of the behavioral health representative shall~~  
16 ~~be noted in the school record of each student who interacts with~~  
17 ~~the behavioral health representative.~~

18 ~~(f) Except as otherwise provided by court order, notice and~~  
19 ~~the information under subsection (e) shall be provided to the~~  
20 ~~student's parent, legal guardian, foster parent or other~~  
21 ~~education decision maker.~~

22 ~~(g) Within ninety (90) days of the effective date of this~~  
23 ~~section, the Department of Education, in conjunction with the~~  
24 ~~Department of Human Services, shall develop guidelines to~~  
25 ~~implement the provisions of this section. Upon development of~~  
26 ~~the guidelines, the Department of Education shall post the~~  
27 ~~guidelines on its publicly accessible Internet website.~~

28 ~~(h) The Department of Education may solicit and accept~~  
29 ~~Federal, State and private money to assist a school entity with~~  
30 ~~implementing this section.~~

~~(i) As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:~~

~~"Behavioral health assistance entity." An entity that is a:~~

~~(1) county behavior and mental health service;~~

~~(2) county social service; or~~

~~(3) community partner for social or mental health organization or agency.~~

~~"Behavioral health representative." An individual who is a volunteer with a behavioral health background or is employed by a behavioral health assistance entity.~~

~~"School entity." A school district, area career and technical school, intermediate unit, charter school, regional charter school and cyber charter school.~~

~~SECTION 130. SCHOOL-BASED MENTAL HEALTH SERVICES PILOT GRANT <--~~

~~PROGRAM.-- (A) THE SCHOOL-BASED MENTAL HEALTH SERVICES PILOT GRANT PROGRAM IS ESTABLISHED WITHIN THE DEPARTMENT TO AWARD GRANTS TO SCHOOL ENTITIES FOR THE PURPOSE OF PROVIDING SUPPLEMENTAL MENTAL HEALTH SERVICES TO THEIR STUDENTS THAT ARE IN ADDITION TO SERVICES PROVIDED BY THE EMPLOYEES OF SCHOOL ENTITIES. THE PROGRAM SHALL SUPPORT THE USE OF COMMUNITY RESOURCES AND ORGANIZATIONS SO THAT STUDENTS OF A SCHOOL ENTITY CAN HAVE THEIR MENTAL HEALTH NEEDS MET WITHIN THE SCHOOL ENTITY.~~

~~(B) WITHIN NINETY (90) DAYS OF THE EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT SHALL DEVELOP A PROCEDURE FOR AWARDING GRANTS, INCLUDING AN APPLICATION FORM AND A REVIEW PROCESS. THE APPLICATION FORM SHALL INCLUDE, AT A MINIMUM, THE FOLLOWING:~~

~~(1) A DESCRIPTION OF THE WAY THE SCHOOL ENTITY INTENDS TO USE THE GRANT AWARD TO PROVIDE SUPPLEMENTAL MENTAL HEALTH SERVICES TO STUDENTS IN A SCHOOL SETTING.~~

1       (2) A DESCRIPTION OF HOW MENTAL HEALTH SPECIALISTS WILL  
2 CONSULT WITH SCHOOL STAFF, INCLUDING MULTIDISCIPLINARY TEAMS,  
3 THE SERVICES THAT MENTAL HEALTH SPECIALISTS WILL PROVIDE AND HOW  
4 MENTAL HEALTH SPECIALISTS WILL WORK UNDER THE SUPERVISION OF AN  
5 EMPLOYE OF THE SCHOOL ENTITY WHO IS IDENTIFIED BY THE SCHOOL  
6 ENTITY'S CHIEF SCHOOL ADMINISTRATOR AS THE COORDINATOR OF  
7 SUPPLEMENTAL MENTAL HEALTH SERVICES WITHIN THE SCHOOL ENTITY.

8       (3) THE AMOUNT OF GRANT MONEY REQUESTED.

9       (4) ADDITIONAL INFORMATION THE DEPARTMENT DETERMINES IS  
10 NECESSARY.

11       (C) THE DEPARTMENT SHALL AWARD GRANT AWARDS EACH FISCAL  
12 YEAR. A SCHOOL ENTITY MAY RECEIVE A GRANT AWARD IN MULTIPLE  
13 FISCAL YEARS. GRANT MONEY RECEIVED BY A SCHOOL ENTITY UNDER THE  
14 PROGRAM MAY NOT BE INCLUDED WHEN CALCULATING THE AMOUNT TO BE  
15 PAID TO A CHARTER SCHOOL UNDER SECTION 1725-A.

16       (D) THE DEPARTMENT SHALL MAKE NO MORE THAN THIRTY-FIVE (35)  
17 GRANT AWARDS EACH FISCAL YEAR OF THE PROGRAM. GRANT AWARDS SHALL  
18 BE GEOGRAPHICALLY DISPERSED ACROSS THIS COMMONWEALTH NO LATER  
19 THAN DECEMBER 1, 2022, AND JULY 1 OF EACH YEAR THEREAFTER.

20       (E) IN ORDER TO RECEIVE A GRANT, A SCHOOL ENTITY MUST AGREE  
21 TO USE GRANT MONEY TO SUPPLEMENT AND NOT SUPPLANT EXISTING  
22 SCHOOL ENTITY SPENDING ON STUDENT MENTAL HEALTH SERVICES, AND  
23 FOR ANY FISCAL YEAR IN WHICH THE SCHOOL ENTITY RECEIVES A GRANT,  
24 THE SCHOOL ENTITY MAY NOT REDUCE, CURTAIL OR ELIMINATE ANY  
25 PROGRAM OR SERVICE RELATED TO STUDENT MENTAL HEALTH THAT EXISTED  
26 AT THE TIME OF APPLICATION.

27       (F) THE DEPARTMENT SHALL FUND GRANT AWARDS WITH  
28 APPROPRIATIONS FOR THE PROGRAM OR WITH GRANTS OR OTHER FUNDING  
29 FROM THE FEDERAL GOVERNMENT, PRIVATE FOUNDATIONS OR OTHER  
30 SOURCES.

1       (G) A SCHOOL ENTITY THAT RECEIVES A GRANT AWARD SHALL DO THE  
2 FOLLOWING:

3       (1) POST THE APPROVED APPLICATION ON THE SCHOOL ENTITY'S  
4 PUBLICLY ACCESSIBLE INTERNET WEBSITE.

5       (2) ENTER INTO ONE OR MORE MEMORANDA OF UNDERSTANDING WITH  
6 THE MENTAL HEALTH SERVICES ENTITY WITH WHICH THE MENTAL HEALTH  
7 SPECIALIST IS AFFILIATED OR EMPLOYED. A MEMORANDUM OF  
8 UNDERSTANDING UNDER THIS PARAGRAPH SHALL BE SUPPLEMENTED OR  
9 UPDATED AS NECESSARY AND SHALL SPECIFY THE FOLLOWING:

10       (I) THE NAME OF THE SCHOOL ENTITY AND EACH SCHOOL IN WHICH  
11 SUPPLEMENTAL MENTAL HEALTH SERVICES WILL BE PROVIDED.

12       (II) THE COST AND LENGTH OF THE AGREEMENT.

13       (III) A DESCRIPTION OF THE FOLLOWING:

14       (A) THE MANNER IN WHICH MENTAL HEALTH SPECIALISTS WILL WORK  
15 IN CONSULTATION AND COORDINATION WITH EXISTING SCHOOL  
16 COUNSELORS, SOCIAL WORKERS AND SCHOOL PSYCHOLOGISTS WHO ARE  
17 EMPLOYED BY THE SCHOOL ENTITY.

18       (B) HOW THE MENTAL HEALTH SERVICES SPECIALIST WILL WORK  
19 UNDER THE SUPERVISION OF AN EMPLOYEE DESIGNATED BY THE CHIEF  
20 SCHOOL ADMINISTRATOR OF THE SCHOOL ENTITY.

21       (C) THE SERVICES THAT THE MENTAL HEALTH SPECIALIST WILL  
22 PROVIDE.

23       (IV) THE NAME OF THE MENTAL HEALTH SPECIALIST WHO WILL BE  
24 ASSIGNED TO THE SCHOOL ENTITY, THE QUALIFICATIONS OF THE MENTAL  
25 HEALTH SPECIALIST AND EVIDENCE THAT THE MENTAL HEALTH SPECIALIST  
26 HAS SATISFIED THE REQUIREMENTS UNDER SECTIONS 111, 111.1 AND  
27 1109(A) AND 23 PA.C.S. CH. 63 SUBCH. C (RELATING TO POWERS AND  
28 DUTIES OF DEPARTMENT).

29       (V) THE NAME OF THE POINT OF CONTACT WITHIN THE MENTAL  
30 HEALTH SERVICES ENTITY WITH WHICH THE MENTAL HEALTH SPECIALIST

1 IS AFFILIATED AND A PROCESS BY WHICH THE POINT OF CONTACT SHALL  
2 COOPERATE WITH THE SCHOOL ENTITY TO RESOLVE CONCERNS REGARDING  
3 SERVICES PROVIDED BY THE MENTAL HEALTH SPECIALIST.

4 (VI) A DESCRIPTION OF QUALITY STANDARDS THAT THE MENTAL  
5 HEALTH SERVICES ENTITY WILL MEET WITH RESPECT TO CONTINUITY OF  
6 MENTAL HEALTH SPECIALISTS ASSIGNED TO SCHOOL ENTITIES TO PROVIDE  
7 SUPPLEMENTAL MENTAL HEALTH SERVICES TO INDIVIDUAL STUDENTS.

8 (H) A SCHOOL ENTITY SHALL ENSURE THAT SUPPLEMENTAL MENTAL  
9 HEALTH SERVICES FUNDED WITH A GRANT ARE PROVIDED CONSISTENT WITH  
10 THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974 (PUBLIC  
11 LAW 90-247, 20 U.S.C. § 1232G), WITH ANY PROVISION OF THIS ACT  
12 AND WITH THE SCHOOL ENTITY'S TRAUMA-INFORMED APPROACH PLAN  
13 DEVELOPED UNDER SECTION 1311-B, THE STUDENT SERVICES PLAN  
14 REQUIRED UNDER 22 PA. CODE § 12.41 (RELATING TO STUDENT  
15 SERVICES) AND THE STUDENT ASSISTANCE PROGRAM REQUIRED UNDER 22  
16 PA. CODE § 12.42 (RELATING TO STUDENT ASSISTANCE PROGRAM).

17 (I) (1) AFTER ENTERING INTO A MEMORANDUM OF UNDERSTANDING  
18 IN ACCORDANCE WITH THIS SECTION, A SCHOOL ENTITY SHALL NOTIFY  
19 PARENTS OR LEGAL GUARDIANS OF ALL STUDENTS ENROLLED IN THE  
20 SCHOOL ENTITY THAT THE SCHOOL ENTITY HAS ENTERED INTO A  
21 MEMORANDUM OF UNDERSTANDING WITH A MENTAL HEALTH SERVICES ENTITY  
22 UNDER THIS SECTION.

23 (2) THE NOTIFICATION SHALL INCLUDE THE FOLLOWING  
24 INFORMATION:

25 (I) A LINK TO THE APPROVED APPLICATION AND A DESCRIPTION OF  
26 THE PROGRAM.

27 (II) A STATEMENT THAT, IF A STUDENT IS IDENTIFIED BY THE  
28 SCHOOL ENTITY AS NEEDING SUPPLEMENTAL MENTAL HEALTH SERVICES,  
29 THE PARENT OR LEGAL GUARDIAN OF A STUDENT WILL BE NOTIFIED AND  
30 HAS THE OPTION, AFTER CONSULTATION WITH THE SCHOOL ENTITY, TO

1 EXEMPT THE STUDENT FROM RECEIVING SUPPLEMENTAL MENTAL HEALTH  
2 SERVICES BY SIGNING AND SUBMITTING AN OPT-OUT FORM TO THE SCHOOL  
3 ENTITY.

4 (3) THE OPT-OUT FORM SHALL BE DEVELOPED BY THE DEPARTMENT  
5 AND PROVIDED TO ALL SCHOOL ENTITIES. THE OPT-OUT FORM SHALL BE  
6 POSTED ON THE PUBLICLY ACCESSIBLE INTERNET WEBSITE OF EACH  
7 SCHOOL ENTITY FOR USE BY PARENTS AND LEGAL GUARDIANS OF  
8 STUDENTS.

9 (J) WITHIN ONE (1) YEAR AFTER RECEIVING A GRANT, A SCHOOL  
10 ENTITY SHALL REPORT TO THE DEPARTMENT A DESCRIPTION OF HOW THE  
11 GRANT AWARD HAS ENABLED THE SCHOOL ENTITY TO PROVIDE SCHOOL-  
12 BASED SUPPLEMENTAL MENTAL HEALTH SERVICES TO STUDENTS OF THE  
13 SCHOOL ENTITY. THE REPORT SHALL BE ON A FORM DEVELOPED BY THE  
14 DEPARTMENT.

15 (K) BY APRIL 30 OF EACH YEAR, THE DEPARTMENT SHALL COMPILE  
16 THE REPORTS RECEIVED UNDER SUBSECTION (J) FOR THE IMMEDIATELY  
17 PRECEDING YEAR AND TRANSMIT THEM, ALONG WITH ANY SUGGESTIONS FOR  
18 IMPROVEMENTS TO THE PROGRAM, TO THE CHAIRPERSON AND MINORITY  
19 CHAIRPERSON OF THE APPROPRIATIONS COMMITTEE OF THE SENATE, THE  
20 CHAIRPERSON AND MINORITY CHAIRPERSON OF THE APPROPRIATIONS  
21 COMMITTEE OF THE HOUSE OF REPRESENTATIVES, THE CHAIRPERSON AND  
22 MINORITY CHAIRPERSON OF THE EDUCATION COMMITTEE OF THE SENATE  
23 AND THE CHAIRPERSON AND MINORITY CHAIRPERSON OF THE EDUCATION  
24 COMMITTEE OF THE HOUSE OF REPRESENTATIVES.

25 (L) WITHIN NINETY (90) DAYS OF THE EFFECTIVE DATE OF THIS  
26 SECTION, THE DEPARTMENT, IN CONJUNCTION WITH THE DEPARTMENT OF  
27 HUMAN SERVICES, SHALL DEVELOP GUIDELINES TO IMPLEMENT THE  
28 PROVISIONS OF THIS SECTION. UPON DEVELOPMENT OF THE GUIDELINES,  
29 THE DEPARTMENT SHALL POST THE GUIDELINES ON THE DEPARTMENT'S  
30 PUBLICLY ACCESSIBLE INTERNET WEBSITE.

1 (M) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO:

2 (1) SUPERSEDE OR PREEMPT THE RIGHTS, REMEDIES AND PROCEDURES  
3 AFFORDED TO SCHOOL EMPLOYEES OR LABOR ORGANIZATIONS UNDER FEDERAL  
4 OR STATE LAW, INCLUDING THE ACT OF JULY 23, 1970 (P.L.563,  
5 NO.195), KNOWN AS THE "PUBLIC EMPLOYEE RELATIONS ACT," OR ANY  
6 PROVISION OF A COLLECTIVE BARGAINING AGREEMENT NEGOTIATED  
7 BETWEEN A SCHOOL EMPLOYER AND AN EXCLUSIVE REPRESENTATIVE OF THE  
8 EMPLOYEES IN ACCORDANCE WITH THE PUBLIC EMPLOYEE RELATIONS ACT.

9 (2) SUPERSEDE THE PROVISIONS OF THE ACT OF FEBRUARY 13, 1970  
10 (P.L.19, NO.10), ENTITLED "ENABLING CERTAIN MINORS TO CONSENT TO  
11 MEDICAL, DENTAL AND HEALTH SERVICES, DECLARING CONSENT  
12 UNNECESSARY UNDER CERTAIN CIRCUMSTANCES."

13 (N) THIS SECTION SHALL EXPIRE JUNE 30, 2027.

14 (O) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES  
15 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS  
16 THE CONTEXT CLEARLY INDICATES OTHERWISE:

17 "CHIEF SCHOOL ADMINISTRATOR" SHALL MEAN THE SUPERINTENDENT OF  
18 A SCHOOL DISTRICT OR CHIEF EXECUTIVE OFFICER OF A CHARTER  
19 SCHOOL, CYBER CHARTER SCHOOL OR REGIONAL CHARTER SCHOOL.

20 "DEPARTMENT" SHALL MEAN THE DEPARTMENT OF EDUCATION OF THE  
21 COMMONWEALTH.

22 "GRANT" SHALL MEAN A GRANT AWARDED UNDER THIS SECTION.

23 "MENTAL HEALTH SERVICES" SHALL MEAN THE PROVISION OF  
24 ASSISTANCE OR PREPARATION OF A PLAN OF ASSISTANCE TO STUDENTS  
25 WHO ARE EXPERIENCING ANXIETY, STRESS, TRAUMA OR OTHER MENTAL OR  
26 EMOTIONAL IMPAIRMENTS INTERFERING WITH THEIR EDUCATION AND  
27 BEHAVIOR AT SCHOOL, WITH THE GOAL OF HELPING STUDENTS ENGAGE IN  
28 THEIR SCHOOL COMMUNITY IN A PRODUCTIVE AND POSITIVE MANNER THAT  
29 MAXIMIZES THEIR SOCIAL AND EMOTIONAL DEVELOPMENT AND LEARNING.

30 "MENTAL HEALTH SERVICES ENTITY" SHALL MEAN A COUNTY OR

1 COMMUNITY ORGANIZATION OR AGENCY THAT IS LICENSED UNDER STATE  
2 LAW TO PROVIDE MENTAL HEALTH SERVICES FOR STUDENTS. THE TERM  
3 INCLUDES AN INTERMEDIATE UNIT.

4 "MENTAL HEALTH SPECIALIST" SHALL MEAN AN INDIVIDUAL WHO IS A  
5 VOLUNTEER OR EMPLOYE OF A MENTAL HEALTH SERVICES ENTITY AND  
6 HOLDS A VALID AND CURRENT PENNSYLVANIA LICENSE AS A  
7 PSYCHOLOGIST, COUNSELOR, SOCIAL WORKER OR CLINICAL SOCIAL  
8 WORKER.

9 "PROGRAM" SHALL MEAN THE SCHOOL-BASED MENTAL HEALTH SERVICES  
10 PILOT GRANT PROGRAM ESTABLISHED UNDER THIS SECTION.

11 "SCHOOL ENTITY" SHALL MEAN A SCHOOL DISTRICT, CHARTER SCHOOL,  
12 REGIONAL CHARTER SCHOOL OR CYBER CHARTER SCHOOL.

13 "SUPPLEMENTAL MENTAL HEALTH SERVICES" SHALL MEAN MENTAL  
14 HEALTH SERVICES PROVIDED BY A MENTAL HEALTH SPECIALIST AND IN  
15 ADDITION TO THE MENTAL HEALTH SERVICES BEING PROVIDED BY A  
16 SCHOOL ENTITY'S EMPLOYEES.

17 Section 2. This act shall take effect immediately.