

## HB0323S02 compared with HB0323S01

~~text~~ shows text that was in HB0323S01 but was deleted in HB0323S02.

text shows text that was not in HB0323S01 but was inserted into HB0323S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Steve Eliason proposes the following substitute bill:

### SCHOOL MENTAL HEALTH FUNDING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Steve Eliason**

Senate Sponsor: ~~\_\_\_\_\_~~ Ann Millner

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#### LONG TITLE

##### General Description:

This bill ~~creates a grant program to award grants to participating schools to administer mental health screening programs for students and amends~~ addresses provisions ~~related~~ relating to ~~the distribution and use of funds for~~ school-based mental health support.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ ~~creates the Public Education Mental Health Screening Grant Program (grant program) to provide grants to~~ prohibits mental health screening without parental consent;
- ▶ permits participating local education agencies (LEAs) to implement mental health

## HB0323S02 compared with HB0323S01

screening programs for participating students;

- ▶ requires the State Board of Education (state board) to:
  - in consultation with the Division of Substance Abuse and Mental Health, approve ~~{a}~~an evidence-based mental health screening program to be administered annually to students in a participating LEA;~~†~~
  - ~~• make rules for an application process for LEAs to apply for a grant under the grant program;~~
  - ~~• select, and award grants to, participating LEAs;†~~ and
    - annually report on the ~~{grant program}~~screening programs to the State Suicide Prevention Coalition and the Education Interim Committee;
- ▶ permits an LEA to use Teacher and Student Support Program money to match money distributed to an LEA for school-based mental health support;
- ▶ removes the fund matching requirement for an LEA that has a school-based mental health support plan that is approved by the state board after a certain date;~~{and}~~
- ▶ permits the state board to use funds appropriated for school-based mental health support to pay an employee to administer the program and oversee mental health personnel in LEAs~~{.};~~ and
- ▶ provides that data collected from a mental health screening may not be included in a student's Student Achievement Backpack.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

53E-9-203, as last amended by Laws of Utah 2019, Chapter 186

53F-2-415, as enacted by Laws of Utah 2019, Chapter 446

ENACTS:

53F-2-522, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

## HB0323S02 compared with HB0323S01

### Section 1. Section 53E-9-203 is amended to read:

#### **53E-9-203. Activities prohibited without prior written consent -- Validity of consent -- Qualifications -- Training on implementation.**

(1) Except as provided in Subsection (7), Section 53G-9-604, and Section 53G-9-702, policies adopted by a school district or charter school under Section 53E-9-202 shall include prohibitions on the administration to a student of any psychological or psychiatric examination, test, or treatment, or any survey, analysis, or evaluation without the prior written consent of the student's parent, in which the purpose or evident intended effect is to cause the student to reveal information, whether the information is personally identifiable or not, concerning the student's or any family member's:

- (a) political affiliations or, except as provided under Section 53G-10-202 or rules of the state board, political philosophies;
- (b) mental or psychological problems;
- (c) sexual behavior, orientation, or attitudes;
- (d) illegal, anti-social, self-incriminating, or demeaning behavior;
- (e) critical appraisals of individuals with whom the student or family member has close family relationships;
- (f) religious affiliations or beliefs;
- (g) legally recognized privileged and analogous relationships, such as those with lawyers, medical personnel, or ministers; and
- (h) income, except as required by law.

(2) Prior written consent under Subsection (1) is required in all grades, kindergarten through grade 12.

(3) Except as provided in Subsection (7), Section 53G-9-604, and Section 53G-9-702, the prohibitions under Subsection (1) shall also apply within the curriculum and other school activities unless prior written consent of the student's parent has been obtained.

(4) (a) Written parental consent is valid only if a parent has been first given written notice, including notice that a copy of the educational or student survey questions to be asked of the student in obtaining the desired information is made available at the school, and a reasonable opportunity to obtain written information concerning:

- (i) records or information, including information about relationships, that may be

## HB0323S02 compared with HB0323S01

examined or requested;

(ii) the means by which the records or information shall be examined or reviewed;

(iii) the means by which the information is to be obtained;

(iv) the purposes for which the records or information are needed;

(v) the entities or persons, regardless of affiliation, who will have access to the personally identifiable information; and

(vi) a method by which a parent of a student can grant permission to access or examine the personally identifiable information.

(b) For a survey described in Subsection (1), written notice described in Subsection (4)(a) shall include an Internet address where a parent can view the exact survey to be administered to the parent's student.

(5) (a) Except in response to a situation which a school employee reasonably believes to be an emergency, or as authorized under Title 62A, Chapter 4a, Part 4, Child Abuse or Neglect Reporting Requirements, or by order of a court, disclosure to a parent must be given at least two weeks before information protected under this section is sought.

(b) Following disclosure, a parent may waive the two week minimum notification period.

(c) Unless otherwise agreed to by a student's parent and the person requesting written consent, the authorization is valid only for the activity for which it was granted.

(d) A written withdrawal of authorization submitted to the school principal by the authorizing parent terminates the authorization.

(e) A general consent used to approve admission to school or involvement in special education, remedial education, or a school activity does not constitute written consent under this section.

(6) (a) This section does not limit the ability of a student under Section 53G-10-203 to spontaneously express sentiments or opinions otherwise protected against disclosure under this section.

(b) (i) If a school employee or agent believes that a situation exists which presents a serious threat to the well-being of a student, that employee or agent shall notify the student's parent without delay.

(ii) If, however, the matter has been reported to the Division of Child and Family

## HB0323S02 compared with HB0323S01

Services within the Department of Human Services, it is the responsibility of the division to notify the student's parent of any possible investigation, prior to the student's return home from school.

(iii) The division may be exempted from the notification requirements described in this Subsection (6)(b)(ii) only if it determines that the student would be endangered by notification of the student's parent, or if that notification is otherwise prohibited by state or federal law.

(7) (a) If a school employee, agent, or school resource officer believes a student is at-risk of attempting suicide, physical self-harm, or harming others, the school employee, agent, or school resource officer may intervene and ask a student questions regarding the student's suicidal thoughts, physically self-harming behavior, or thoughts of harming others for the purposes of:

- (i) referring the student to appropriate prevention services; and
- (ii) informing the student's parent.

(b) On or before September 1, 2014, a school district or charter school shall develop and adopt a policy regarding intervention measures consistent with Subsection (7)(a) while requiring the minimum degree of intervention to accomplish the goals of this section.

(8) Local school boards and charter school governing boards shall provide inservice for teachers and administrators on the implementation of this section.

(9) The state board shall provide procedures for disciplinary action for violations of this section.

(10) Data collected from a survey described in Subsection (1):

(a) is a private record as provided in Subsection 63G-2-302(6);

(b) may not be shared except in accordance with the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g; and

(c) may not be included in a student's Student Achievement Backpack, as that term is defined in Section 53E-3-511.

Section ~~{1}~~2. Section **53F-2-415** is amended to read:

**53F-2-415. Student health and counseling support -- Qualifying personnel -- Distribution formula -- Rulemaking.**

(1) As used in this section[, "qualifying]:

(a) "{qualifying} Qualifying personnel" means a school counselor or other counselor,

## HB0323S02 compared with HB0323S01

school psychologist or other psychologist, school social worker or other social worker, or school nurse who:

~~[(a)]~~ (i) is licensed; and

~~[(b)]~~ (ii) collaborates with educators and a student's parent on:

~~[(+)]~~ (A) early identification and intervention of the student's academic and mental health needs; and

~~[(+)]~~ (B) removing barriers to learning and developing skills and behaviors critical for the student's academic achievement.

(b) "Telehealth services" means the same as that term is defined in Section 26-60-102.

(2) (a) Subject to legislative appropriations, and in accordance with Subsection (2)(b), the state board shall distribute money appropriated under this section to LEAs to provide in a school targeted school-based mental health support, including clinical services and trauma-informed care, through:

(i) employing qualifying personnel; or

(ii) entering into contracts for services provided by qualifying personnel, including telehealth services.

(b) (i) The state board shall, after consulting with LEA governing boards, develop a formula to distribute money appropriated under this section to LEAs.

(ii) The state board shall ensure that the formula described in Subsection (2)(b)(i) incentivizes an LEA to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

(3) To qualify for money under this section, an LEA shall submit to the state board a plan that includes:

(a) measurable goals approved by the LEA governing board on improving student safety, student engagement, school culture, or academic achievement;

(b) how the LEA intends to meet the goals described in Subsection (3)(a) through the use of the money;

(c) how the LEA is meeting the requirements related to parent education described in Section 53G-9-703; and

(d) whether the LEA intends to provide school-based mental health support in collaboration with the local mental health authority of the county in which the LEA is located.

## HB0323S02 compared with HB0323S01

(4) The state board shall distribute money appropriated under this section to an LEA that qualifies under Subsection (3):

(a) based on the formula described in Subsection (2)(b); and

(b) if the state board approves the LEA's plan before April 1, 2020, in an amount of money that the LEA equally matches using local [or] money, unrestricted state money, or money distributed to the LEA under Section 53G-7-1303.

(5) An LEA may not use money distributed by the state board under this section to supplant federal, state, or local money previously allocated to:

(a) employ qualifying personnel; or

(b) enter into contracts for services provided by qualified personnel, including telehealth services.

(6) The state board shall make rules that establish:

(a) procedures for submitting a plan for and distributing money under this section;

(b) the formula the state board will use to distribute money to LEAs described in Subsection (2)(b); and

(c) in accordance with Subsection (7), annual reporting requirements for an LEA that receives money under this section.

(7) An LEA that receives money under this section shall submit an annual report to the state board, including:

(a) progress toward achieving the goals submitted under Subsection (3)(a);

(b) if the LEA discontinues a qualifying personnel position, the LEA's reason for discontinuing the position; and

(c) how the LEA, in providing school-based mental health support, complies with the provisions of Section 53E-9-203.

(8) Beginning on or before July 1, 2019, the state board shall provide training that instructs school personnel on the impact of childhood trauma on student learning, including information advising educators against practicing medicine, giving a diagnosis, or providing treatment.

(9) The state board may use up to 2% of an appropriation under this section for costs related to the administration of the provisions of this section.

(10) Notwithstanding the provisions of this section, money appropriated under this

## HB0323S02 compared with HB0323S01

section may be used, as determined by the state board, for:

- (a) the SafeUT Crisis Line described in Section 53B-17-1202; or
- (b) youth suicide prevention programs described in Section 53G-9-702.

Section ~~{2}~~3. Section **53F-2-522** is enacted to read:

### **53F-2-522. Public Education Mental Health Screening**~~{Grant Program}~~.

(1) As used in this section:

- (a) "Division" means the Division of Substance Abuse and Mental Health.
- (b) "~~{Grant program}~~" means the Public Education Mental Health Screening Grant

Program created in this section:

~~——~~ (c) "~~{}~~Participating LEA" means an LEA ~~{selected by the state board to receive a grant}~~ that has an approved screening program described in this section.

(~~{d}~~)c) "Participating student" means a student in a participating LEA who participates in a mental health screening program.

(~~{e}~~)d) "Qualifying parent" means a parent:

(i) of a participating student who, based on the results of a screening program, would benefit from ~~{an intervention}~~resources that cannot be provided to the participating student in the school setting; and

(ii) who qualifies for financial assistance to pay for the ~~{intervention}~~resources under rules made by the state board.

(~~{f}~~)e) "Screening program" means a student mental health screening program selected by a participating LEA and approved by the state board in consultation with the division.

(2) ~~{There is created the Public Education Mental Health Screening Grant Program to, within appropriations made by the Legislature for this purpose, provide grants to}~~ ~~A~~ participating ~~{LEAs to}~~ LEA may implement an annual mental health screening for participating students using ~~{a}~~ an evidence-based screening program selected by the participating LEA and approved by the state board in consultation with the division.

(3) The state board shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:

(i) ~~{criteria for an LEA to qualify to receive a grant under the grant program};~~

~~——~~ (ii) an application process for an LEA to apply for a grant under the grant program;



## HB0323S02 compared with HB0323S01

~~(iii)~~ a process for a participating LEA to submit a selected screening program to the state board for approval;

~~(iv)~~ ii) in accordance with Title 53E, Chapter 9, Student Privacy and Data Protection, and the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, who may access and use a participating student's screening data; and

~~(v)~~ iii) a requirement and a process for appropriate LEA or school personnel to attend annual training related to administering the screening program;

~~(b) select participating LEAs to receive grants under the grant program in accordance with the rules made under Subsection (3)(a);~~

~~(c) in accordance with this section, award grants to participating LEAs;~~

~~(d)~~ b) in consultation with the division, approve ~~(a)~~ an evidence-based student mental health screening program selected by a participating LEA that:

(i) is age appropriate for each grade in which the screening program is administered;

(ii) screens for the mental health conditions determined by the state board and division;

and

(iii) is an effective tool for identifying whether a student has a mental health condition that requires intervention; and

~~(e)~~ c) on or before November 30 of each year, submit a report on the ~~(grant program)~~ screening programs to:

(i) the State Suicide Prevention Coalition created under Subsection 62A-15-1101(2);

and

(ii) the Education Interim Committee in accordance with Section 53E-1-201.

(4) A participating LEA shall:

(a) in accordance with rules made by the state board under Subsection (3)(a), submit a selected screening program to the state board for approval;

(b) ~~(use grant money to)~~ annually administer a screening program to participating students in the participating LEA;

(c) obtain prior written consent from a student's parent, that complies with Section 53E-9-203, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g, before the participating LEA administers the screening program to a participating student;

~~(d) notify the parent of each participating student of the results of the} and~~

## HB0323S02 compared with HB0323S01

(d) if results of a participating student's screening~~}; and~~

~~\_\_\_\_\_ (e) work with the participating LEA's school}; indicate a potential mental health professional to provide to a participating student an intervention that can be provided in the school setting if:~~

~~\_\_\_\_\_ (i) based on the results of the screening program a participating student would benefit from intervention; and~~

~~\_\_\_\_\_ (ii) a} condition, notify the parent of the participating student ~~{provides written consent that complies with Section 53E-9-203, and the Family Educational Rights and Privacy Act, 20 U.S.C. Sec. 1232g.~~~~

~~\_\_\_\_\_ (5) A participating student's screening data may not be included in} of:~~

~~(i) the participating student's {record.~~

~~\_\_\_\_\_ (6) (a) The} results; and~~

~~(ii) resources available to the participating student, including any services that can be provided by the school mental health provider or by a partnering entity.~~

(5) (a) Within appropriations made by the Legislature for this purpose, the state board may distribute ~~{any surplus }~~ funds ~~{ appropriated under this section}~~ to a participating LEA to use to assist a qualifying parent to pay for ~~{an intervention}~~ resources described in Subsection (4)(~~{c}~~~~d~~)(ii) that cannot be provided by a school mental health professional in the school setting.

(b) The state board shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for:

(i) determining whether a parent is eligible to receive the financial support described in Subsection (~~{6}~~~~7~~)(a); and

(ii) applying for and distributing the financial support described in Subsection (~~{6}~~~~7~~)(a).

(6) A school employee trained in accordance with rules made by the state board under Subsection (3)(a)(iii), who administers an approved mental health screening in accordance with this section in good faith, is not liable in a civil action for an act taken or not taken under this section.