

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0055.01 Chelsea Princell x4335

HOUSE BILL 23-1003

HOUSE SPONSORSHIP

Michaelson Jenet,

SENATE SPONSORSHIP

Cutter,

House Committees

Public & Behavioral Health & Human Services

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CREATION OF THE "SIXTH THROUGH TWELFTH**
102 **GRADE MENTAL HEALTH ASSESSMENT ACT".**

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.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 DESIGNED TO IDENTIFY THE POSSIBILITY THAT A STUDENT HAS A MENTAL
2 HEALTH CONCERN.

3 (3) "PARENT" MEANS A CHILD'S BIOLOGICAL PARENT, ADOPTIVE
4 PARENT, LEGAL GUARDIAN, OR OTHER ADULT PERSON RECOGNIZED BY THE
5 CHILD'S SCHOOL AS THE CHILD'S PRIMARY CAREGIVER.

6 (4) "PARTICIPATING SCHOOL" MEANS A PUBLIC SCHOOL THAT
7 PARTICIPATES IN THE SIXTH THROUGH TWELFTH GRADE MENTAL HEALTH
8 ASSESSMENT PROGRAM CREATED IN THIS PART 20.

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

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

13 (7) "QUALIFIED PROVIDER" MEANS THE ENTITY SELECTED BY THE
14 DEPARTMENT PURSUANT TO THIS PART 20 TO CONDUCT THE MENTAL
15 HEALTH ASSESSMENT.

16 **25-20.5-2003. Sixth through twelfth grade mental health**
17 **assessment program - created - rules.** (1) THERE IS CREATED IN THE
18 DEPARTMENT THE SIXTH THROUGH TWELFTH GRADE MENTAL HEALTH
19 ASSESSMENT PROGRAM TO IDENTIFY POTENTIAL RISKS RELATED TO UNMET
20 MENTAL OR EMOTIONAL HEALTH NEEDS OF STUDENTS IN GRADES SIX
21 THROUGH TWELVE AND TO PROVIDE AN AT-RISK STUDENT WITH
22 RESOURCES AND REFERRALS TO ADDRESS THE STUDENT'S MENTAL OR
23 EMOTIONAL HEALTH CONCERNS.

24 (2) A PUBLIC SCHOOL THAT SERVES ANY OF GRADES SIX THROUGH
25 TWELVE MAY PARTICIPATE IN THE PROGRAM PURSUANT TO THIS PART 20.

26 (3) TO PARTICIPATE IN THE PROGRAM, A PUBLIC SCHOOL MUST
27 NOTIFY THE DEPARTMENT, IN THE MANNER PRESCRIBED BY THE

1 DEPARTMENT, BEFORE MAY 1 IN THE YEAR BEFORE THE SCHOOL YEAR
2 THAT THE PUBLIC SCHOOL WANTS TO BEGIN PARTICIPATION.

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

7 (a) THE PURPOSE FOR THE ASSESSMENT;

8 (b) THE QUALIFIED PROVIDER SELECTED TO CONDUCT THE MENTAL
9 HEALTH ASSESSMENT;

10 (c) THE DATE AND TIME THE MENTAL HEALTH ASSESSMENT IS
11 SCHEDULED;

12 (d) A STATEMENT THAT THE PARENT WILL BE NOTIFIED FOLLOWING
13 ANY MENTAL HEALTH ASSESSMENT IF ADDITIONAL RESOURCES OR SERVICE
14 REFERRALS ARE NECESSARY TO ADDRESS THE STUDENT'S MENTAL HEALTH
15 CONCERN. THIS STATEMENT MUST ALSO STATE THAT THIS NOTIFICATION
16 WILL ONLY BE PROVIDED TO THE PARENTS OF A CHILD TWELVE YEARS OF
17 AGE OR OLDER IF THE CHILD CONSENTS TO THE NOTIFICATION.

18 (e) A STATEMENT NOTIFYING THE PARENT THAT THE PARENT HAS
19 THE RIGHT TO OPT THE PARENT'S CHILD OUT OF PARTICIPATION IN THE
20 MENTAL HEALTH ASSESSMENT AND THAT PROVIDES INFORMATION ON HOW
21 TO OPT OUT AND THE TIME FRAME FOR OPTING OUT;

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

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

27 (5) UNLESS A STUDENT CONSENTS TO THE MENTAL HEALTH

1 ASSESSMENT PURSUANT TO SECTION 12-245-203.5, A PARENT OR
2 GUARDIAN HAS THE AUTHORITY TO OPT OUT OF THEIR CHILD'S
3 PARTICIPATION IN THE MENTAL HEALTH ASSESSMENT IN THE MANNER
4 PRESCRIBED BY THE PARTICIPATING SCHOOL.

5 (6) A MENTAL HEALTH ASSESSMENT MUST:

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

8 (b) BE CONDUCTED BY A QUALIFIED PROVIDER THAT MEETS THE
9 REQUIREMENTS OF SUBSECTION (8) OF THIS SECTION.

10 (7) PRIOR TO CONDUCTING A MENTAL HEALTH ASSESSMENT, THE
11 QUALIFIED PROVIDER MUST INFORM THE STUDENT OF THE CIRCUMSTANCES
12 IN WHICH CONFIDENTIALITY WILL NOT BE MAINTAINED.

13 (8) THE DEPARTMENT SHALL SELECT A QUALIFIED PROVIDER TO
14 CONDUCT THE MENTAL HEALTH ASSESSMENTS THROUGH A REQUEST FOR
15 PROPOSALS PROCESS ESTABLISHED BY THE DEPARTMENT. AT A MINIMUM,
16 THE QUALIFIED PROVIDER SHALL:

17 (a) NOT PROVIDE DIRECT MENTAL HEALTH SERVICES;

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

20 (c) HAVE THE ABILITY TO COLLECT AND REPORT DATA FROM THE
21 MENTAL HEALTH ASSESSMENT;

22 (d) HAVE EXPERIENCE DELIVERING AND MANAGING A STATEWIDE
23 MENTAL HEALTH ASSESSMENT PROGRAM WITH RELIABLE AND CONSISTENT
24 PERFORMANCE; AND

25 (e) COMPLY WITH ANY OTHER REQUIREMENTS THE DEPARTMENT
26 DETERMINES NECESSARY.

27 (9) AFTER A MENTAL HEALTH ASSESSMENT IS CONDUCTED, THE

1 QUALIFIED PROVIDER SHALL REVIEW ALL RESULTS AND DETERMINE WHICH
2 STUDENTS NEED ADDITIONAL MENTAL HEALTH SERVICES.

3 (10) (a) IF, AFTER REVIEWING THE MENTAL HEALTH ASSESSMENT
4 RESULTS, THE QUALIFIED PROVIDER BELIEVES A STUDENT IS AT RISK OF
5 ATTEMPTING SUICIDE, PHYSICAL SELF-HARM, HARMING OTHERS, OR IS IN
6 NEED OF IMMEDIATE ATTENTION FROM A MENTAL HEALTH PROFESSIONAL,
7 THE QUALIFIED PROVIDER SHALL IMMEDIATELY NOTIFY THE STUDENT'S
8 SCHOOL. AFTER RECEIVING SUCH NOTIFICATION, THE SCHOOL SHALL
9 FOLLOW THE SCHOOL'S CRISIS RESPONSE POLICY.

10 (b) IF, AFTER REVIEWING THE MENTAL HEALTH ASSESSMENT
11 RESULTS, THE QUALIFIED PROVIDER BELIEVES A STUDENT MAY BE
12 SUFFERING FROM A MENTAL HEALTH CONCERN OTHER THAN THOSE
13 STATED IN SUBSECTION (10)(a) OF THIS SECTION AND IS IN NEED OF
14 ADDITIONAL MENTAL HEALTH SERVICES, THE QUALIFIED PROVIDER SHALL
15 NOTIFY THE STUDENT'S PARENT WITHIN FORTY-EIGHT HOURS AFTER THE
16 QUALIFIED PROVIDER HAS REVIEWED THE STUDENT'S MENTAL HEALTH
17 ASSESSMENT RESULTS AND PROVIDE THE STUDENT'S PARENT WITH
18 INFORMATION ON RESOURCES AND SERVICES PROVIDED THROUGH
19 IMATTER, IF:

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

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

23 (c) THE QUALIFIED PROVIDER SHALL REFER A STUDENT WHO IS
24 TWELVE YEARS OF AGE OR OLDER TO IMATTER FOR MENTAL HEALTH
25 SERVICES WITHIN FORTY-EIGHT HOURS AFTER THE QUALIFIED PROVIDER
26 HAS REVIEWED THE STUDENT'S MENTAL HEALTH ASSESSMENT RESULTS, IF
27 THE STUDENT DOES NOT CONSENT TO THE NOTIFICATION IN SUBSECTION

1 (10)(b)(II) OF THIS SECTION.

2 (11) IF AT ANY TIME DURING THE MENTAL HEALTH ASSESSMENT
3 THE QUALIFIED PROVIDER BELIEVES THAT A STUDENT IS A VICTIM OF CHILD
4 ABUSE OR NEGLECT OR THAT THE CHILD'S HOME SITUATION PRESENTS AN
5 IMMEDIATE SERIOUS THREAT OF HARM TO THE CHILD, THE QUALIFIED
6 PROVIDER SHALL REPORT THE KNOWN OR SUSPECTED CHILD ABUSE OR
7 NEGLECT PURSUANT TO SECTION 19-3-304.

8 (12) INDIVIDUALLY IDENTIFIABLE INFORMATION COLLECTED FOR
9 OR BY THE QUALIFIED PROVIDER IS SUBJECT TO THE FEDERAL "HEALTH
10 INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", PUB.L.
11 104-191, AS AMENDED. THE QUALIFIED PROVIDER IS THE CUSTODIAN OF
12 ALL RECORDS ASSOCIATED WITH MENTAL HEALTH ASSESSMENTS. THE
13 QUALIFIED PROVIDER MAY NOT DISCLOSE RECORDS OR INFORMATION
14 WITHOUT WRITTEN CONSENT FROM THE STUDENT, IF THE STUDENT IS OVER
15 EIGHTEEN YEARS OF AGE, OR THE STUDENT'S PARENT. INFORMATION
16 COLLECTED OR LEARNED DURING THE COURSE OF A MENTAL HEALTH
17 ASSESSMENT IS NOT PART OF THE STUDENT'S SCHOOL RECORD UNLESS THE
18 NOTIFICATION REQUIREMENTS OF SUBSECTION (10)(a) OF THIS SECTION
19 APPLY AND THE DISCLOSURE MEETS THE REQUIREMENTS OF THE FEDERAL
20 "FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974", 20 U.S.C.
21 SEC. 1232g, AS AMENDED, AND ALL APPLICABLE GUIDELINES ADOPTED IN
22 ACCORDANCE THEREWITH.

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

26 **SECTION 2.** In Colorado Revised Statutes, 19-3-304, **amend**
27 (2)(mm) and (2)(nn); and **add** (2)(oo) as follows:

1 **19-3-304. Persons required to report child abuse or neglect.**

2 (2) Persons required to report such abuse or neglect or circumstances or
3 conditions include any:

4 (mm) Naturopathic doctor registered under article 250 of title 12;
5 **and**

6 (nn) Employees of the department of early childhood; AND

7 (oo) QUALIFIED PROVIDER THAT CONDUCTS ANNUAL SCHOOL
8 MENTAL HEALTH ASSESSMENTS PURSUANT TO PART 20 OF ARTICLE 20.5 OF
9 TITLE 25.

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