HOUSE BILL REPORT
ESSB 5389

As Reported by House Committee On:
Education

Title: An act relating to establishing a telehealth training and treatment program to assist youth.

Brief Description: Establishing a telehealth training and treatment program to assist youth.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Becker, Cleveland, Bailey, Wilson, L., Brown, Walsh and Warnick).

Brief History:
Committee Activity:
Education: 3/25/19, 4/1/19 [DPA].

Brief Summary of Engrossed Substitute Bill
(As Amended by Committee)

- Directs the University of Washington and others to design a training curriculum and training delivery system to train middle, junior high, and high school staff to identify students who are at risk for substance abuse, violence, or youth suicide.
- Requires the Office of the Superintendent of Public Instruction and others to develop a policy and procedure regarding the use of telemedicine in schools.
- Establishes a five-year pilot program for three school districts for the purpose of training certificated employees to identify at risk students, providing the at-risk students with up to two telemedicine consultations or visits with a psychiatrist, psychologist, or mental health counselor, and referring at-risk students for further treatment.
- Allows psychiatrists, psychologists, and mental health counselors who provide telemedicine as part of the pilot program to seek reimbursement for the health care services.
- Specifies that the act does not create any civil liability on the part of the state or any state agency, officer, employee, agent, political subdivision, or school district.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

HOUSE COMMITTEE ON EDUCATION

Majority Report: Do pass as amended. Signed by 16 members: Representatives Santos, Chair; Paul, Vice Chair; Steele, Ranking Minority Member; Volz, Assistant Ranking Minority Member; Bergquist, Callan, Corry, Harris, Kilduff, Kraft, Ortiz-Self, Rude, Stonier, Thai, Valdez and Ybarra.

Minority Report: Do not pass. Signed by 2 members: Representatives Dolan, Vice Chair; Caldier.

Minority Report: Without recommendation. Signed by 1 member: Representative McCaslin, Assistant Ranking Minority Member.

Staff: Megan Wargacki (786-7194).

Background:

Plans for Emotional or Behavioral Distress in Students. In 2014 school districts were required to adopt a plan for recognition, initial screening, and response to emotional or behavioral distress in students, such as indicators of possible substance abuse, violence, youth suicide, and sexual abuse. School districts must annually provide the plan to all district staff. The plan must include certain minimum components related to: staff trainings; communicating with students' families; and partnership development for referral of students to health, mental health, substance abuse, and social support services. The plan must also address how staff should respond to: suspicions, concerns, or warning signs of emotional or behavioral distress in students; or a crisis situation where a student is in imminent danger to himself or herself or others.

Training on Emotional or Behavioral Distress in Students. School nurses, school social workers, school psychologists, and school counselors must complete a three-hour training program on youth suicide screening and referral as a condition of certification. The content of the training is determined by the Professional Educator Standards Board in consultation with the Office of the Superintendent of Public Instruction (OSPI) and the Department of Health.

To receive initial certification as a teacher, an applicant must complete a course on issues of abuse. This course must include the following content: the identification of physical abuse, emotional abuse, sexual abuse, and substance abuse; commercial sexual abuse of a minor; sexual exploitation of a minor; information on the impact of abuse on the behavior and learning abilities of students; discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse; methods for teaching students about abuse of all types and their prevention; and recognition, screening, and response to emotional or behavioral distress in students, such as indicators of possible substance abuse, violence, and youth suicide.

Educational service districts are required to develop and maintain the capacity to offer training for educators and other school district staff on youth suicide screening and referral, and on recognition, initial screening, and response to emotional or behavioral distress in

students, such as indicators of possible substance abuse, violence, youth suicide, and sexual abuse. Training may be offered on a fee-for-service basis, or at no cost to school districts or educators if funds are appropriated specifically for this purpose or made available through grants or other sources.

The Department of Social and Health Services (DSHS) is required to provide funds for mental health first aid training targeted at teachers and educational staff. The training must describe: common mental disorders that arise in youth; their possible causes and risk factors; the availability of evidence-based medical; psychological, and alternative treatments; processes for making referrals for behavioral health services; and methods to effectively render assistance in both initial intervention and crisis situations. The DSHS must collaborate with the OSPI to identify ways to make the training broadly available.

Extension for Community Healthcare Outcomes Program. The University of Washington School of Medicine Extension for Community Healthcare Outcomes Program (Project ECHO) is a teleconsultation model designed for common diseases, like psychotic disorders, that have a high public health impact, require complex management, and for which clinical expertise is limited. Through Project ECHO local clinicians are able to videoconference with specialists in real time.

Summary of Amended Bill:

Curriculum on Training School Staff to Identify At Risk Students. The University of Washington (UW) College of Education and Department of Psychiatry and Behavioral Sciences, including child and adolescent licensed mental health professionals (LMHPs) at Seattle Children's Hospital, and in consultation with the Office of the Superintendent of Public Instruction (OSPI), must design a training curriculum and training delivery system to train middle, junior high, and high school staff to identify students who are at risk for substance abuse, violence, or suicide. "Licensed mental health professional" means a psychiatrist, psychologist, or mental health counselor licensed to practice in Washington.

The training curriculum must: (a) be developed in consultation with mental health providers; (b) be designed in conjunction and collaboration with educational service district (ESD) trainings on emotional or behavioral distress in students; (c) align with national best practices; and (d) be designed to assist any school staff in identifying students who have had thoughts of suicide or harming others, and have abused, are abusing, or are at risk of abusing alcohol or drugs, including opioids. The training delivery system may use live teleconference capabilities similar to the Project ECHO training model already developed at the UW, in addition to in-person trainings

Directory of Telemedicine Providers. The UW, in conjunction with child and adolescent LMHPs at Seattle Children's Hospital, must coordinate with medical schools, hospitals, clinics, and independent providers to develop a directory of child and adolescent LMHPs who have access to the technology necessary to provide telemedicine to students who are determined to be at risk for substance abuse, violence, or suicide. The UW must update the directory periodically and make it available to the school districts participating in the pilot

program described below. "Telemedicine" means the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment. "Telemedicine" does not include the use of audio-only telephone, facsimile, or electronic mail.

Policy and Procedure Regarding the Use of Telemedicine in Schools. By March 30, 2020, the OSPI, in conjunction with the Washington State School Directors' Association and the UW, must develop a policy and procedure regarding the use of telemedicine in schools. The policy and procedure must address privacy requirements under the federal Family Educational Rights and Privacy Act of 1974 and its implementing regulations and the federal Health Insurance Portability and Accountability Act of 1996 and its implementing regulations. The policy and procedure must include provisions related to parent notification, student consent, and parent involvement.

Pilot Program. The UW and child and adolescent LMHPs at Seattle Children's Hospital, in consultation with the OSPI, must establish a pilot program for selected school districts. The UW and the OSPI must select three school districts representing Eastern, Central, and Western Washington, as well as urban and rural areas. Every junior high or middle school and high school in each of the selected school districts must participate in the pilot program.

The pilot program must begin at the start of the 2020-21 school year and must conclude at the end of the 2024-25 school year. Prior to participating in the pilot program, school districts must adopt the policy and procedure regarding the use of telemedicine in schools.

Training. The selected school districts must require that all certificated employees at each school receive training based on the curriculum developed as described above prior to the 2020-21 school year. The training may be incorporated within existing school district and ESD training programs and related resources.

Identification, Provision of Telemedicine, and Referral. If a certificated employee identifies a student who may be at risk for substance abuse, violence, or suicide, the certificated employee must notify a school counselor, school psychologist, school social worker, or school nurse. The school counselor, school psychologist, school social worker, or school nurse must screen the identified student to determine if the student is at risk for substance abuse, violence, or suicide.

If a school counselor, school psychologist, school social worker, or school nurse determines that a student is at risk for substance abuse, violence, or suicide, the student's school district may schedule a telemedicine consultation or visit for the student, based upon the assessed risk, within 30 days of the determination.

Any telemedicine consultations or visits must be scheduled and conducted in accordance with the following requirements:

- The school district must utilize the directory of telemedicine providers to enlist a LMHP to provide: consultation with a LMHP qualified to diagnose and treat students at risk for substance abuse, violence, or suicide; or treatment by a LMHP qualified to treat students at risk for substance abuse, violence, or suicide.

- The school district must provide an unoccupied room and the technology necessary for an employee or the student to connect with the remote LMHP for the telemedicine consultation or visit.
- The school district must allow the student to participate in the telemedicine consultation or visit during normal school hours.

If after the initial telemedicine consultation or visit the LMHP recommends a second telemedicine visit, then the student's school district must schedule a second telemedicine visit for the student. The scheduling of the second telemedicine visit must be based upon the risk assessment from the initial consultation or visit and must be urged to be scheduled beyond 30 days of the initial consultation or visit.

Following a second telemedicine visit, the school district must work with the LMHP to refer the student to any appropriate medical, mental health, or behavioral health services.

Reimbursement. Licensed mental health professionals who provide telemedicine as part of the pilot project may seek reimbursement for the health care services provided from the health plan in which a student is enrolled. For students with no health care coverage, a LMHP may seek reimbursement from the state for any uncompensated health care services provided to the students.

Report. By August 1 of each year that the pilot program is active, the UW, in conjunction with child and adolescent LMHPs at Seattle Children's Hospital and the OSPI, must submit a report to the Governor, the education committees of the Legislature, and the Joint Select Committee on Health Care Oversight. The report must include: information about the number of students who were identified as potentially at risk for substance abuse, violence, or suicide; the number of students who received a telemedicine consultation or visit in school; the number of students who were referred and received further treatment outside of the two authorized visits in the school; and information on the progress of the at-risk students who were identified and received treatment in the pilot program, if available.

Liability. This act does not create any civil liability on the part of the state or any state agency, officer, employee, agent, political subdivision, or school district.

Amended Bill Compared to Engrossed Substitute Bill:

Compared to the engrossed substitute bill, the amended bill:

- modifies the requirement that the University of Washington (UW) design a training curriculum and training delivery system to train middle through high school staff in a pilot program to identify students who are at risk for substance abuse, violence, or suicide (at-risk students), by changing collaborators (for example, to include the Office of the Superintendent of Public Instruction (OSPI)) and aspects of the curriculum and delivery system requirements (such as no longer requiring the curriculum to be designed to assist students struggling with mental health issues and removing store-and-forward technology as a named option for the delivery system);
- adds that the directory of psychiatrists who have access to the technology necessary to provide telemedicine to at-risk students must include psychologists and mental health counselors who have this technology;

- defines "telemedicine" to mean the delivery of health care services through the use of interactive audio and video technology, permitting real-time communication between the patient at the originating site and the provider, for the purpose of diagnosis, consultation, or treatment; but specifies that "telemedicine" does not include the use of audio-only telephone, facsimile, or electronic mail;
- directs the OSPI, in conjunction with the Washington State School Directors' Association and the UW, to develop a policy and procedure regarding the use of telemedicine in schools, including provisions related to privacy, student consent, parent notification, and parent involvement; and requires school districts in the pilot program to adopt this policy;
- requires that the UW and child and adolescent psychiatrists, psychologists, and mental health counselors licensed to practice in Washington (LMHPs) at Seattle Children's Hospital, in consultation with the OPSI, establish a five-year pilot program for three school districts on the use of telemedicine in schools;
- specifies that school districts in the pilot project must require that certificated employees receive the training developed by the UW and follow a specified process for identifying, referring, and providing telemedicine services to at-risk students;
- modifies provisions related to the process for identifying, referring, and providing telemedicine services to at-risk students, for example, by allowing the school districts participating in the pilot program (rather than requiring all school districts) to schedule telemedicine consultations or visits in specified situations; and allowing LMHPs to provide treatment in addition to consultation;
- requires annual reports on the pilot projects to the Governor, and the Joint Select Committee on Health Care Oversight and the education committees of the Legislature;
- continues to allow LMHPs who provide telemedicine to seek reimbursement from a student's health plan or, for students with no health care coverage, from the state;
- removes provisions related to using donations to support development of the training curriculum and delivery system, and creating a system and methodology related to reimbursements for services provided to students without health insurance; and
- maintains limitation of liability language, an emergency clause, and intent language.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on April 2, 2019.

Effective Date of Amended Bill: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony:

(In support) This bill is a three year work in progress. There is currently no way to control the number of people who are referred to state psychiatric hospitals. Prevention is the best cure. There are four mental health stages: stage one is due to a situational issue; stage two requires a counselor; stage three requires hospitalization; and stage four requires removal of a person from the community. This bill will intervene before people get to stage two. The

Extension for Community Healthcare Outcomes Program is a peer-to-peer training for physicians. The bill will bring telepsychiatry into the schools. If a psychiatrist determines that the student needs more help than one or two visits, then a referral can happen.

A similar concept to what is proposed in this bill was proposed in House Bill1876. The proposal could be turned into a pilot project, in terms of size and scope, particularly testing the psychiatric teleconsultation portion in select school districts. The intent of the language around the training is to make it as broad as possible.

(Opposed) None.

(Other) This is an innovative concept that is new to the state. The bill should be turned into a pilot project to work out the kinks before expansion. Not all school districts have access to teleconsultation technology. There are concerns about whether this would work over the telephone. Section 4 of the bill should have stronger language, so that prior to consultation with a psychiatrist, staff must brief the psychiatrist on what they saw that indicates the student needs the consultation.

The training requirements in the bill will take a lot of time and money. Section 6 of the bill, among other bills, adds to training requirements. The required trainings, without additional funded time, are a concern. Additional required trainings cut into the opportunities that school districts have to address other important elements, such as safety and instructional issues. It is unclear from the bill how long the training would take. The training proposed in the bill is critical, but may not take into account training that certain school staff already undergo. A pilot program could focus on a subset of staff to determine whether the training should be scaled up to other staff.

Many school districts are seeking ways to improve the mental health of their students by looking at other ways to identify students. Mental health services for students should be increased across the state, especially in rural areas. Staff and school district liability is a concern. Section 4 of the bill outlines a process for staff to follow when at risk students are identified. School staff are not trained mental health providers, and despite receiving a half-day of training, there will be situations in which a student is not identified as being at-risk when they might be.

Persons Testifying: (In support) Senator Becker, prime sponsor; and Ian Goodhew, University of Washington-School of Medicine.

(Other) Lucinda Young, Washington Education Association; Sean Dotson, Cheney Public Schools; and Jessica Vavrus, Washington State School Directors' Association.

Persons Signed In To Testify But Not Testifying: None.