Date of Hearing: May 19, 2021

ASSEMBLY COMMITTEE ON APPROPRIATIONS
Lorena Gonzalez, Chair
AB 988 (Bauer-Kahan) – As Amended May 13, 2021

Policy Committee:	Health	Vote:	11 - 2
	Communications and Conveyance		10 - 0

Urgency: Yes State Mandated Local Program: Yes Reimbursable: Yes

SUMMARY:

This bill implements a comprehensive "988" system for suicide prevention and mental health crisis response, funded by a surcharge imposed on each telephone line in an amount sufficient to pay the costs of the 988 system. Specifically, this bill:

1) Establishes the 988 system, overseen by the Office of Emergency Services (OES) and by a director appointed by OES.

2) Requires OES to designate a 988 crisis hotline center or centers to provide crisis intervention services and crisis care coordination, ensure coordination between mental health crisis service providers and mental health hotlines, establish training guidelines for employees involved in the implementation of 988, establish standards for mental health crisis services and seek to maximize federal funds in consultation with the Department of Health Care Services (DHCS).

3) Funds the 988 system through a surcharge aligned with the state's existing 911 surcharge, and allows OES to determine the rate of surcharge for each telephone line based on a calculation of 988 system costs for the current fiscal year, less the amount available in the newly created State Mental Health and Crisis Services special fund, up to a cap of $0.80.

4) Sets the surcharge amount for the calendar years 2022 and 2023 at the same level as the 911 surcharge.

5) Exempts Lifeline customers from the surcharge. (Persons in households who participate in public benefit programs such as Medi-Cal or National School Lunch Program are eligible for Lifeline).

6) Limits expenditures of revenue generated by the 988 surcharge to purposes authorized by the National Suicide Hotline Designation Act, and prioritizes revenue for services in the following order:
   a) 988 crisis hotline centers, including the efficient and effective routing of calls, personnel, and the provision of acute mental health services through call, text, and chat to the 988 number.
   b) The operation of mobile crisis support teams.
   c) All other eligible expenses under the federal act.

7) Imposes a number of new requirements on counties:

a) Requires counties use funds made available through the 988 State Mental Health and Crisis Services Special Fund to expand access to mental health crisis services, and allows counties to form a joint powers authority for the purpose.

b) Requires counties to work with crisis care providers to bill health care plans or insurers for all medically necessary treatment of a mental health or substance use disorder, as defined in existing law, provided to privately-insured individuals through the 988 system.

c) Requires counties to seek to maximize existing funding sources to maintain mental health crisis services.

d) Requires county-operated mental health crisis services to be made available to 988 callers and requires counties to coordinate with 988 crisis hotline centers on the deployment of services.

8) Requires health plans and insurers to reimburse for medically necessary treatment, provided through crisis services, within 30 calendar days.

9) Requires 988 crisis hotline centers, counties and other relevant entities to become fully compliant with regulations issued by OES.

10) Requires annual reporting on budget, personnel, system capacity and demand, system performance and outcomes for individuals served.

11) Requires all elements of the 988 system to be consistent with federally established National Culturally and Linguistically Appropriate Services Standards and provide culturally and linguistically competent services.

12) Requires counties to use any funds remitted to them to fund their 988 crisis hotline centers.

13) Requires a call made to 911 pertaining to a mental health crisis shall be transferred to a 988 crisis hotline center.

14) Prohibits law enforcement from being contacted or deployed in partnership with a mobile crisis support team unless there is an explicit threat to public safety and the situation cannot be reasonably managed without law enforcement assistance

FISCAL EFFECT:

1) Revenues of around $190 million per year for the first two years to the Mental Health and Crisis Services Fund, to be reevaluated at the end of two years. Pursuant to current law, CDTFA imposes an emergency telephone user surcharge of $0.30 per month to support the 911 system, resulting in revenues of $192 million in fiscal year 2020-21.

   This bill specifies the 988 surcharge will be set at the same level as the existing 911 surcharge for the first two years, raising a similar amount as the current surcharge, $192 million annually, after which it will be reassessed.

2) Staffing costs to OES of $3.4 million to manage the technological aspects of the infrastructure and $22.2 million for local assistance, including equipment, technology and training (Mental Health and Crisis Services Fund).

3) Costs of an unknown amount, likely in the millions, to OES for a director and a new division to conduct the mental health-related programmatic duties assigned under this bill (Mental Health and Crisis Services Fund).

4) Costs to the California Department of Tax and Fee Administration (CDTFA) in the range of $50,000 to $250,000 to collect an additional surcharge (Mental Health and Crisis Services Fund). This bill specifies CDTFA is reimbursed for the cost.

5) Significant state-reimbursable costs to counties or other entities for delivery of crisis services (Mental Health and Crisis Services Fund). Depending on OES's design of the system, some of the duties may be assigned to counties or other contracted entities.

6) Costs to Department of Managed Health Care for legal services to conduct research and prepare two legal memoranda, as well as plan licensing workload to provide guidance and review documents for compliance with coverage requirements, of $285,000 in fiscal year 2021-22, $200,000 in fiscal year 2022-23 and $135,000 in fiscal year 2323-24 and annually thereafter (Managed Care Fund).

7) Minor costs to the California Department of Insurance to attend stakeholder meetings and provide guidance on the adoption of regulations, and costs to CDI of an unknown amount for potential complaints related to coverage and contested claims (Insurance Fund).

8) $600,000 General Fund annually to the California Department of Public Health Office of Health Equity to provide statewide technical assistance to counties, crisis hotline centers and other contracted entities in grant-writing and the identification of grants.

COMMENTS:

1) **Purpose**. According to the author, this bill implements a new three-digit phone line, 988, for suicide prevention and local emergency response by trained mental health professionals for individuals in mental health crisis. The author argues the current mental health crisis infrastructure is fragmented, inadequate and underfunded where it exists at all. The author contends communities across the state dissatisfied with the current system that puts people suffering from mental illness through an expensive and traumatizing revolving door as they shuttle between jails, emergency rooms, and the street. The author states this bill is an historic opportunity to implement the federally designated 988 system in a manner that will get people in mental health crisis the help they need, whether over the phone or in the community.

2) **Background**. The federal National Suicide Hotline Designation Act (Act), in October 2020, designated the three-digit telephone number "988" as the universal number within the United States for the purpose of the national suicide prevention and mental health crisis. Similar to 911 for medical or safety emergencies, the hotline system is meant to connect individuals in mental crisis with services. As envisioned by the federal law, dialing 988 is meant to connect an individual to the suicide prevention and mental health crisis services.

   The Act envisions and authorizes the imposition of a fee or charge on telephone lines to support the 988 system and associated services, provided the fee or charge is held in a sequestered account to be obligated or expended only in support of 988 services, or

enhancements of such services, as specified in the provision of state or local law adopting the fee or charge.

The Act also specifies that the fee or charge collected must only be imposed, collected, and used to pay expenses a state is expected to incur that are reasonably attributed to the following:

a) Ensuring the routing of calls made to the 988 national suicide prevention and mental health crisis hotline to an appropriate crisis center.
b) ***Personnel and the provision of acute mental health, crisis outreach and stabilization services*** by directly responding to the 988 hotline. [emphasis added]

This bill implements the federal law with fidelity with respect to the imposition of a fee to fund the interconnection and routing of calls, as well as acute mental health, crisis outreach and stabilization services. The Act does not require state action, but call volume to the National Suicide Prevention Lifeline is expected to significantly increase when 988 goes live in July 2022. Further, without dedicated funding, it is likely access to in-person mental health crisis services will remain spotty and unavailable for many individuals calling 988.

3) **Mental Health Crisis Services**. According to the Substance Abuse and Mental Health Services Administration (SAMHSA) National Guidelines for Behavioral Health Crisis Care Best Practice Toolkit, there are three core components of a no-wrong-door mental health crisis system: someone to talk to (call center), someone to respond (a mobile crisis team) and a place to go (crisis stabilization services). These services are explained further below:

   a) **Regional Crisis Call Center**: Crisis call centers should be staffed to provide crisis intervention to an individual reaching out through telephone, text and chat. SAMHSA states call centers should meet National Suicide Prevention Lifeline (NSPL) standards for risk assessment and engagement of individuals at imminent risk of suicide and offer high-quality coordination of crisis care in real-time. Thirteen such centers operate in California, where callers are connected by dialing the Lifeline, 1-800-273-TALK, and are routed to local centers where possible.

   b) **Mobile Crisis Teams**: Mobile crisis teams meet individuals in an environment where they are comfortable, trying to resolve the crisis situation when possible and providing appropriate care and support. Most community-based mobile crisis programs deploy teams that include both professional and paraprofessional staff—for instance, a mental health clinician with a peer support specialist.

   c) **Crisis Receiving and Stabilization Facilities**: Crisis stabilization facilities provide short-term (under 24 hours) observation and crisis stabilization services to all referrals in a home-like, non-hospital environment.

   Mental health crisis services can often help resolve mental health crises more safely, at a lower cost and with less trauma than if a crisis escalates to require law enforcement involvement, a psychiatric hold or inpatient hospitalization.

4) **Existing Mental Health Crisis Infrastructure**. Although there is no ongoing, stable source of funding specifically designated for provision of in-person mental health crisis services, some counties and cities have chosen to allocate funds to develop and deploy such services.

The services offered and capacity vary by local jurisdiction. According to a survey of behavioral health agencies, although a majority of counties offer some level of mental health crisis services, only ten have any existing 24/7 mobile crisis response capacity. Of the ten with existing 24/7 capacity, it is unclear how capacity compares to demand, but anecdotally services are underfunded compared to demand. Funding is allocated at county discretion from local Mental Health Services Act (MHSA) allocations and federal reimbursement is sought for crisis services provided to Medi-Cal eligible individuals (counties pay the non-federal share of cost for such Medi-Cal services). There have also been, in past years, state grant funds allocated to enhance mental health crisis infrastructure, but there is no ongoing state or federal funding specific to mental health crisis services.

The state maintains a modest investment of around $4 million statewide annually in suicide prevention call centers. According to representatives of the thirteen designated National Suicide Prevention Lifeline centers in the state, each center is funded in a manner unique to their center. Funding generally comes from a combination of state, county (MHSA funding) and city funding, as well as some minimal seed funding from the national Lifeline for special projects, such as implementing a chat functionality. In addition, many crisis centers apply for grants or also hold fundraisers specific to suicide prevention and to support other local services they provide, such as support groups, training and outreach.

5) **Existing 911 Surcharge**. The California Department of Tax and Fee Administration administers the Emergency Telephone Users Surcharge program in cooperation with Cal OES. The emergency telephone users surcharge is imposed on monthly bills for intrastate telephone communication service, including Voice over Internet Protocol (VoIP) and wireless services. Telecommunications companies and other providers collect the surcharge from each user and remit the amounts collected to the state. Cal OES is authorized to set the surcharge, subject to a cap of $0.80. The surcharge is currently set at $0.30.

6) **Support**. The Steinberg Institute and the Kennedy Forum, as well as the Los Angeles County Board of Supervisors, Contra Costa County, Miles Hall Foundation and NAMI Contra Costa, are cosponsors of this bill. Sponsors state California is facing a mental health crisis and argue this bill will ensure the state is prepared to handle the expected increase in volume demand of calls to suicide prevention lines. Sponsors argue a comprehensive crisis response system can prevent tragedies, save money and increase access to appropriate care. This bill is also supported by a large number of mental health and disability rights advocates, cities and other stakeholders.

7) **Support if Amended.** California Behavioral Health Directors Association (CBHDA) supports this bill if amended to address a large number of concerns. In general, CBHDA's concerns relate to protecting the discretion of counties to administer crisis services, clearly delineating roles and responsibilities and clarifying the use of funding. In particular, CBHDA objects to the construct whereby call centers administered independently of counties would be authorized to dispatch county employees. CBHDA also argues for the inclusion of substance use in a broader definition of behavioral health crisis and for a "Behavioral Health Crisis Service Administrator" role at the local level.

8) **Opposition Unless Amended**. Telecommunications and cable companies express opposition to this bill unless amended to limit the surcharge to the cost of connecting 988 to crisis hotline centers. The California Taxpayers Association (CTA) expresses similar opposition to

the bill, arguing a phone surcharge should be narrowly focused to funding the cost of connecting calls to a crisis hotline, rather than funding a broad healthcare program that requires ongoing funding for this critical service. SEIU California opposes this bill unless it is amended to address several concerns, including the designation of DHCS as the statewide oversight entity, removing call center authority to dispatch county-administered mobile crisis services, additional accountability for fee revenues and other concerns.

9) **Staff Comments**. Implementation of 988 as a designated line, a national decision California does not control, is expected to increase demand for mental health crisis services across the continuum. Without new and sustained resources to enhance the provision of services, demand for services will continue to outpace capacity of the state's uneven, disjointed and under-resourced crisis services. Under the status quo, many people in behavioral health crisis will continue to interact with systems like law enforcement and hospital emergency departments when in crisis.

In preparing for the 988 go-live date of July 2022, the state has fiscal and policy choice to create a surcharge to fund the 988 system. The state can choose to authorize a minimal surcharge and provide the minimal necessary technological interconnections to ensure phone lines are routed correctly to the local call center, similar to the surcharge that supports the 911 system.

Alternatively, the state can choose to pursue the opportunity, as envisioned in the federal authorizing legislation and implemented by this bill, to impose a surcharge that funds the connection infrastructure as well as expands capacity at suicide prevention and mental health crisis call center and capacity to provide in-person crisis services (mobile crisis response and crisis stabilization). As noted above, there is no existing, robust statewide mobile health crisis system to "plug into"— if the state believes in-person crisis services should be made available, these services would have to be developed or significantly enhanced, and such an effort would to identify ongoing resources. In other words, the state will get what it pays for.

If the more robust path in this bill is taken, this bill needs additional clarity and changes in a number of areas. State-level responsibility for mental health system design and oversight should be under DHCS, not OES, which does not have the required expertise. The author should ensure requirements are drafted in the appropriate codes; for instance, requirements on health insurers should be placed in the Insurance Code. Responsibility for service provision and staffing along the crisis continuum, as well as dispatch and coordination of crisis services, should be clearly delineated or the administration should be delegated to appropriate local entities. In any case, this bill must include a local planning and implementation function whereby services are developed, managed and deployed. As the appropriate response to a mental health crisis is situation-dependent, resources vary and circumstances can change rapidly, deference to local discretion, with respect to contact with law enforcement and deployment of law enforcement in partnership with mobile crisis services, seems warranted. Lastly, transparent mechanisms for determining total funding amounts and the subsequent fee amounts, as well as disbursement, should be clearly describe.

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