

## House Bill HB 240

*Relating to the requirement and study of insurance coverage for serious emotional disturbance of a child*

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Access to appropriate, high-quality mental health treatments and services increases the opportunity for recovery. Federal parity laws, followed by the passing of HB 10 during the 85<sup>th</sup> Texas Legislature, were enacted so that individuals living with mental health or substance use conditions can access treatments and services on par with physical health services. This should extend to children and youth. As the Texas Insurance Code is currently written, serious mental illness (SMI) is defined by diagnoses in the Diagnostic and Statistical Manual (DSM) applicable to persons 18 years or older, and only includes the limited diagnosis of depression in children and adolescents. This means that children and youth with behavioral or emotional issues often do not meet the criteria as defined in the code.

Serious emotional disturbance (SED) is used to refer to children and youth younger than 18 who have had a diagnosable mental, behavioral, or emotional disorder in the previous year which resulted in functional impairment that substantially interfered with or limited the child's role or functioning in family, school, or community activities.<sup>1</sup> This terminology is widely accepted and used by SAMHSA, Texas Health and Human Services, and in education, child welfare and juvenile justice codes. While children's mental health services are often widely covered in public and private health insurance benefits, they are not actually defined in the health insurance code and are left to potentially be denied.

SED impacts 1 in 10 children in the U.S.<sup>2</sup> Nationwide, students identified as having serious emotional disturbance have the highest drop-out rate (55.9 percent) among students receiving special education or general education services.<sup>3</sup> During the 2019-20 school year, over 36,000 Texas students were identified as having serious emotional disturbance — roughly six percent of all students identified as eligible for special education services.<sup>4</sup> A report from the Texas Juvenile Justice Department cited 482 entries into juvenile justice alternative education programs for students in special education in 2018-19, of which 26.5 percent had a primary diagnosis of SED.<sup>5</sup>

Children with SED do best when they receive a continuum of services involving their families and communities. However, intensive mental health services and treatments for children with SED or significant behavior challenges are often inaccessible to the children and families who need them, primarily due to the high cost of these services if coverage is not provided. A very real consequence of not providing these services to youth with SED and their families is the possibility of relinquishment of parental rights to the state's Child Protective Services department (CPS). When appropriate services are not available, loving parents are sometimes forced to make the heart-wrenching decision of relinquishing custody of their child to CPS or turning them over to the juvenile justice system to make sure that their child gets the services that they need.

HB 501 clarifies the distinction between the definitions for SMI and SED so that issues and treatments specific to children are properly defined, such as interventions in family environments or school for at-risk behavior. Statutory clarification of the definition of *serious emotional disturbance* offers the state a solid benchmark by which to measure compliance with federal and Texas' parity standards as it relates to children. Including a definition for *serious emotional disturbance* for children in the Texas Insurance Code will remove any confusion and ensure children's access to mental health services is at parity with their coverage of physical health services.

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<sup>1</sup> Substance Abuse and Mental Health Services Administration, Center for Mental Health Services. (1993, May 20). Definition of children with a serious emotional disturbance. Federal Register, 58(96), 29425.

<sup>2</sup> Williams, N., Scott, L., & Aarons, G. (2018). Prevalence of serious emotional disturbance among U.S. children: A meta-analysis. *Psychiatric Services*, 69 (1), 32-40. Retrieved from <https://ps.psychiatryonline.org/doi/pdf/10.1176/appi.ps.201700145>

<sup>3</sup> Wynne, Martha Ellen, Ashley E. Ausikaitis, and Mary Satchwell. (2013). Adult Outcomes for Children and Adolescents With EBD. SAGE Open, January-March 2013: 1-14.

<sup>4</sup> Texas Education Agency. (2020). 2019-2020 Special education reports. Retrieved from [https://rptsvr1.tea.texas.gov/cgi/sas/broker?\\_service=marykay&\\_program=adhoc\\_std\\_driver1.sas&RptClass=SpecEd&\\_debug=0&SchoolYr=20&report=StateState&format=html](https://rptsvr1.tea.texas.gov/cgi/sas/broker?_service=marykay&_program=adhoc_std_driver1.sas&RptClass=SpecEd&_debug=0&SchoolYr=20&report=StateState&format=html)

<sup>5</sup> Texas Juvenile Justice Department. (2018). Juvenile Justice Alternative Education Programs, Performance Assessment Report, School Year 2018-19. Retrieved from <https://www.tjjd.texas.gov/index.php/doc-library/send/177-jjaep-performance-assessment-reports/2343-jjaep-performance-assessment-report-for-school-year-2018-19>