

## FINAL 2-22-22

### Model Bill for Core State Behavioral Health Crisis Services Systems

#### **AN ACT** concerning a **Core State Behavioral Health Crisis Services System**

For the purpose of improving the quality and access to behavioral health crisis services; reducing stigma surrounding suicide, mental health and substance use conditions; providing a behavioral health crisis response that is substantially equivalent to the response already provided to individuals who require emergency physical health care in the state; furthering equity in addressing mental health and substance use conditions; ensuring a culturally and linguistically competent response to behavioral health crises and saving lives; building a new system of equitable and linguistically appropriate behavioral crisis services in which all individuals are treated with respect, dignity, cultural competence and humility; and for the purpose of complying with the National Suicide Hotline Designation Act of 2020 and the Federal Communication Commission’s rules adopted July 16, 2020 to assure that all citizens and visitors of the State of XXXXX receive a consistent level of 9-8-8 and crisis behavioral health services no matter where they live, work, or travel in the state.

BY adding to/repealing/reenacting, with amendments, Article XX, Section XX, Annotated Code of XXXXX

(A) In this title the following words have the meanings indicated.

- (1) “9-8-8” means the universal telephone number for the national suicide prevention and mental health crisis hotline system within the United States operating through the National Suicide Prevention Lifeline (NSPL), or its successor, maintained by the Assistant Secretary for Mental Health and Substance Use under section 520E–3 of the Public Health Service Act.
- (2) “9-8-8 Administrator” means the Administrator of the 9-8-8 national suicide prevention and mental health crisis hotline system maintained by the Assistant Secretary for Mental Health and Substance Use under section 520E–3 of the Public Health Service Act.
- (3) “9-8-8 Contact” means a communication with the 9-8-8 national suicide prevention and mental health crisis hotline system within the United States operating through the National Suicide Prevention Lifeline or its successor via modalities offered, including call, chat, or text.

- (4) "9-8-8 Crisis Hotline Center" (crisis center) means a state-designated center participating in the National Suicide Prevention Lifeline Network to respond to statewide or regional 9-8-8 contacts.
- (5) "9-8-8 fee" means the surcharge assessed on commercial landline, mobile service, prepaid wireless voice service, and interconnected voice over internet protocol service lines created under section 5.
- (6) "9-8-8 Trust Fund" means the 9-8-8 suicide prevention and mental health crisis hotline system fund created under section 4.
- (7) "Community Mental Health Centers, and Certified Community Behavioral Health Clinics means facilities as defined under Sec. 1913(c) of the Public Health Services Act and/or Section 223(d) of the Protecting Access to Medicare Act of 2014 (PAMA), and Community Behavioral Health Organizations as licensed and certified by relevant state agencies.
- (8) "Crisis receiving and stabilization services" are facilities providing short-term services (under 24 hours) with capacity for diagnosis, initial management, observation, crisis stabilization and follow up referral services to all persons in a home-like environment.
- (9) "Federal Communications Commission" regulates interstate and international communications by radio, television, wire, satellite, and cable in all 50 states, the District of Columbia and U.S. territories. An independent U.S. government agency overseen by Congress, the Commission is the federal agency responsible for implementing and enforcing America's communications law and regulations.
- (10) "Mobile Crisis Teams" means a multidisciplinary behavioral health team as defined in the American Rescue Plan Act of 2021 (Section 1947(b)(2) of Public Law 117-2).
- (11) "National Suicide Prevention Lifeline" (NSPL) is a national network of local crisis centers providing free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.
- (12) "Peers" are individuals employed on the basis of their personal lived experience of a mental health condition and/or substance use disorder and recovery who have successfully completed a state or nationally recognized peer support training program.
- (13) "Substance Abuse and Mental Health Services Administration" is the agency within the U.S. Department of Health and Human Services that leads public health efforts to advance the behavioral health of the nation.
- (14) "Veterans Crisis Line" (VCL) means Veterans Crisis Line maintained by the Secretary of Veterans Affairs under section 1720F(h) of title 38, United States Code.

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF XXXXX that the State of XXXXX must, prior to July 16, 2022, designate a crisis hotline center or centers to provide crisis intervention services and crisis care coordination to individuals accessing the 9-8-8 suicide

prevention and behavioral health crisis hotline from any jurisdiction within [State] twenty-four hours a day, seven days a week:

- (A) The designated hotline center(s) must have an active agreement with the National Suicide Prevention Lifeline (NSPL) for participation within the Lifeline network.
- (B) The designated hotline center(s) must meet NSPL requirements and best practices guidelines for operational, performance and clinical standards.
- (C) The designated hotline center(s) must provide data, report, and participate in evaluations and related quality improvement activities as required by the 9-8-8 Administrator.
- (D) State shall use its authority to promulgate rules and regulations to allow appropriate information sharing and communication between and across crisis and emergency response systems for the purpose of real-time crisis care coordination including, but not limited to, deployment of crisis and outgoing services and linked, flexible services specific to crisis response.
- (E) The designated hotline center(s) shall have the authority to deploy crisis and outgoing services, including mobile crisis teams, and coordinate access to crisis receiving and stabilization services or other local resources as appropriate and consistent with any guidelines and best practices that may be established by the NSPL.
- (F) To facilitate the ongoing care needs of persons contacting 988, the state or related public health authority shall assure active collaborations and coordination of service linkages between the designated center(s), mental health and substance use disorder treatment providers, local Community Mental Health Centers (including Certified Community Behavioral Health Clinics and Community Behavioral Health Centers), mobile crisis teams, and community-based as well as hospital emergency departments and inpatient psychiatric settings, establishing formal agreements and appropriate information sharing procedures where appropriate.
- (G) The state or related public health authority shall assure active collaborations and coordination of service linkages between the designated center(s) and crisis receiving and stabilization services for individuals accessing the 9-8-8 suicide prevention and behavioral health crisis hotline through appropriate information sharing regarding availability of services.
- (H) The [State mental health, public health, disability services, or behavioral health agency], having primary oversight of suicide prevention and crisis service activities and essential coordination with designated 988 hotline center(s), shall work in concert with the NSPL and VCL and other SAMHSA-approved networks for the purposes of ensuring consistency of public messaging about 988 services.

- (I) The designated hotline center(s) shall meet the requirements set forth by NSPL for serving at-risk and specialized populations as identified by the Substance Abuse and Mental Health Services Administration, including, but not be limited to, LGBTQ youth, minorities, rural individuals, veterans, American Indians, Alaskan Natives, and other high-risk populations well as those with co-occurring substance use; provide linguistically and culturally competent care; and include training requirements and policies for transferring a 988 contact to an appropriate specialized center or subnetworks within the NSPL network.
- (J) The designated hotline center(s) must provide follow-up services to individuals accessing the 9-8-8 suicide prevention and behavioral health crisis hotline consistent with guidance and policies established by the NSPL.
- (K) The [State mental health, public health, disability services, or behavioral health agency], having primary oversight of suicide prevention and crisis service activities and essential coordination shall provide an annual report of the 9-8-8 suicide prevention and mental health crisis hotline's usage and the services provided shall be made to the [state legislature/general assembly] and the Substance Abuse and Mental Health Services Administration.

SECTION 2. BE IT ALSO ENACTED BY THE GENERAL ASSEMBLY OF XXXXX that the State of XXXXX shall provide onsite response services to crisis calls utilizing State and/or locally funded Mobile Crisis Teams (MCTs):

- (A) The Mobile Crisis Teams shall be (1) jurisdiction-based behavioral health teams including licensed behavioral health professionals and including peers, and/or (2) behavioral health teams embedded in Emergency Medical Services (EMS) and including peers.
- (B) Mobile Crisis Teams shall (1) collaborate with local first responder and behavioral health agencies and (2) include police as co-responders in behavioral health teams, including police, licensed behavioral health professionals and peers, only as needed to respond in high-risk situations that cannot be managed without law enforcement.
- (C) Mobile Crisis Teams and crisis stabilization services provided shall (1) be designed in partnership with community members, including people with lived experience utilizing crisis services and (2) be staffed by personnel that reflect the demographics of the community served and (3) collect customer service data from individuals served by demographic requirements, including race and ethnicity, set forth by SAMHSA and consistent with the state block grant requirements for continuous evaluation and quality improvement.

SECTION 3. BE IT ALSO ENACTED BY THE GENERAL ASSEMBLY OF XXXXX that the State of XXXXX shall fund treatment for crisis receiving and stabilization services related to the contact:

- (A) For the purposes of this Act, crisis receiving and stabilization services facilities with greater than 16 beds should not be considered Institutions for Mental Disease under the Social Security Act 1905(i).
- (B) Crisis receiving and stabilization services shall be funded by the State if the individual meets the State's definition of uninsured, the services are not otherwise covered by another entity including, but not limited to, municipal or county programs or funding, or the crisis stabilization service is not a covered service by the individual's health coverage.
- (C) For Medicaid recipients, the state Medicaid office shall work with the entity responsible for the development of crisis receiving and stabilization services to explore options for appropriate coding of and payment for crisis management services.
- (D) The State shall determine how payment will be made to the provider of service.

SECTION 4. BE IT ALSO ENACTED BY THE GENERAL ASSEMBLY OF XXXXX that the State of XXXXX shall establish a statewide 9-8-8 trust fund for the following purposes:

- (A) To create and maintain a statewide 9-8-8 suicide prevention and mental health crisis system pursuant to the National Suicide Hotline Designation Act of 2020, the Federal Communication Commission's rules adopted July 16, 2020, and national guidelines for crisis care; and
- (B) To support or enhance 9-8-8 services, including state designated 9-8-8 hotline centers, mobile crisis teams, and crisis receiving and stabilization services.
  - (1) The fund consists of:
    - (a) The statewide 9-8-8 fee revenue assessed on users under section 5 of this chapter;
    - (b) Appropriations made by the state [legislature/general assembly];
    - (c) Available federal funding that has been allocated by the state for the purposes of 9-8-8 implementation;
    - (d) Grants and gifts intended for deposit in the fund;
    - (e) Interest, premiums, gains, or other earnings on the fund; and
    - (f) Money from any other source that is deposited in or transferred to the fund.
- (C) The fund shall be administered by [state mental health, public health, disability services, or behavioral health agency] and money in the fund shall be expended to offset costs that are or can be reasonably attributed to:
  - (1) Implementing, maintaining, and improving the 9-8-8 suicide prevention and behavioral health crisis hotline including staffing and technological infrastructure enhancements necessary to achieve operational and clinical standards and best practices set forth by NSPL;
  - (2) Provision of acute behavioral health, crisis outreach, and receiving and stabilization services by directly responding to the 9-8-8 national suicide prevention and behavioral health crisis hotline;

- (3) Personnel for 9-8-8 hotline centers and acute mental health, crisis outreach and stabilization services, include individuals that reflect the demographics of the community served and have specialized training to serve at-risk communities, including culturally and linguistically competent services for LGBTQ+ individuals, youth, and racially, ethnically, and linguistically diverse communities;
  - (4) Provision of data, reporting, participation in evaluations and related quality improvement activities as required by the 9-8-8 Administrator; and
  - (5) Administration, oversight and evaluation of the fund.
- (D) Money in the fund:
- (1) Does not revert at the end of any state fiscal year but remains available for the purposes of the fund in subsequent state fiscal years;
  - (2) Is not subject to transfer to any other fund or to transfer, assignment, or reassignment for any other use or purpose outside of those specified in Section 5; and
  - (3) Is continuously appropriated for the purposes of the fund.
- (E) An annual report of fund deposits and expenditures shall be made to the [state legislature/general assembly] and the Federal Communications Commission.

SECTION 5. BE IT ALSO ENACTED BY THE GENERAL ASSEMBLY OF XXXXX that the State of XXXXX, in compliance with the National Suicide Hotline Designation Act of 2020, shall establish a monthly statewide 9-8-8 fee on each resident that is a subscriber of commercial landline telephone, mobile telephone and/or IP-enabled voice services, and a point-of-sale 9-8-8 fee on each purchaser of a prepaid telephone service, at a rate that provides for the robust creation, operation, and maintenance of a statewide 9-8-8 suicide prevention and behavioral health crisis system and the continuum of services provided pursuant to national guidelines for crisis services.

- (A) The revenue generated by a 9-8-8 fee should be sequestered in trust as specified in Section 4 to be obligated or expended only in support of 9-8-8 services, or enhancements of such services.
- (B) Consistent with 47 U.S.C. § 251a, the revenue generated by a 9-8-8 fee must only be used to offset costs that are or will be reasonably attributed to:
  - (1) ensuring the efficient and effective routing and answering/handling of calls, chats and texts made to the 9-8-8 suicide prevention and mental health crisis hotline to the designated hotline center(s) including staffing and technological infrastructure enhancements necessary to achieve operational, performance and clinical standards and best practices set forth by NSPL; and
  - (2) personnel and the provision of acute mental health, crisis outreach and stabilization services by directly responding to the 9-8-8 national suicide prevention and mental health crisis hotline.

- (C) The revenue generated by 9-8-8 fees may only be used for expenses that are not:
  - (1) reimbursable through Medicaid, Medicare, federal or state-regulated health insurance plans, disability insurers, and including, but not limited to, municipal or county programs or funding, not otherwise covered by another entity including but not limited to, municipal or county programs;
  - (2) a covered service by the individual's health coverage; and
  - (3) covered because the service recipient's name and health coverage information cannot be obtained or billed
- (D) 9-8-8 fee revenue shall be used to supplement, not supplant, any federal, state or local funding for suicide prevention or behavioral health crisis services.
- (E) The 9-8-8 fee amount shall be adjusted as needed to provide for continuous operation, volume increases and maintenance.
- (F) An annual report on the revenue generated by the 9-8-8 fee shall be made to the [state legislature/general assembly] and the Federal Communications Commission.

SECTION 6. BE IT ALSO ENACTED BY THE GENERAL ASSEMBLY OF XXXXX that the State of XXXXX shall require [State mental health, public health, disability services, or behavioral health agency] to provide primary oversight and direction on the state's implementation and operation of the 9-8-8 suicide prevention and mental health crisis hotline. [The Governor, State mental health, public health, disability services, or behavioral health agency] shall create an advisory body or require an existing advisory body to provide guidance to the [State mental health, public health, disability services, or behavioral health agency], gather feedback, and make recommendations regarding the planning and implementation of the 9-8-8 suicide prevention and behavioral health crisis hotline. The advisory body must include but is not limited to: representatives of the designated 9-8-8 crisis center(s), 9-1-1 call centers, the state mental health authority, state substance use agency, law enforcement, hospital emergency departments, state courts appointed by the Chief Justice, individuals with lived experience with suicide prevention or behavioral health crisis services usage and family members and caregivers, and behavioral health crisis services providers.

SECTION 7. BE IT ALSO ENACTED BY THE GENERAL ASSEMBLY OF XXXXX that the State of XXXXX shall establish timeframes to accomplish the provisions of this ACT that are consistent with the timeframes required by the National Suicide Hotline Designation Act of 2020 and the Federal Communication Commission's rules adopted on July 16, 2020.