

AMENDED IN SENATE MAY 25, 2021

AMENDED IN SENATE APRIL 19, 2021

SENATE BILL

No. 528

Introduced by Senator Jones

February 17, 2021

An act to amend Sections 369.5 and 16501.3 of, and to add Section 16010.1 to, the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 528, as amended, Jones. Juveniles: health information summary: psychotropic medication.

Existing law establishes the jurisdiction of the juvenile court, which may adjudge a child to be a dependent or ward of the court under certain circumstances. Existing law requires, when a child is placed in foster care, the case plan to include a summary of the health and education information or records, including mental health information, of the child. Existing law requires a child protective agency to, as soon as possible, but not later than 30 days after the initial placement of a child into foster care, provide the caregiver with the child's current health and education summary.

Existing law authorizes only a juvenile court judicial officer to make orders regarding the administration of psychotropic medications for a dependent child or a ward who has been removed from the physical custody of their parent. Existing law requires that court authorization for the administration of psychotropic medications to a child be based on a request from a physician, indicating the reasons for the request, a description of the child's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication,

and requires the Judicial Council to develop appropriate forms for the implementation of these provisions.

Existing law requires the State Department of Social Services to establish a program of public health nursing in the child welfare services program, and requires counties to use the services of the foster care public health nurse under this program. Existing law requires the foster care public health nurse to work with the appropriate child welfare services workers to coordinate health care services and to serve as a liaison with health care professionals, and requires the foster care public health nurse to have access to the child's medical, dental, and mental health care information to fulfill these duties. Existing law also requires the foster care public health nurse to collect health information on each foster child and participate in medical care planning and coordinating for a child, which includes facilitating the acquisition of any necessary court authorizations for procedures or medications and monitoring and oversight of psychotropic medications, among other things.

This bill would require the rules of court and forms developed by the Judicial Council for authorization to administer psychotropic drugs to include a requirement that a physician authorized to administer psychotropic medication shall provide to the child's caseworker and the foster care public health nurse specified information on the child's diagnoses and treatment, among other things, ~~within 72 hours~~ *5 business days* of the administration of psychotropic medication for the child.

This bill would require the State Department of Social Services to create an electronic health care portal, or use an existing electronic portal, that will provide health care providers with access to the health information of a child in foster care that is included in the health and education summary and the completed and approved court forms for the administration of psychotropic medication for specified dependent children. The bill would provide health care providers of a child in foster care access to the electronic health care portal created pursuant these provisions when providing health care services and medical treatment to the child. The bill would require the foster care public health nurse to update the electronic health care portal and the health and education summary with the child's medical, dental, and mental health care information whenever there is new information, and would require the foster care public health nurse to provide the child's medical, dental, and mental health care information to health care providers, the child or their caregiver, and nonminor dependents, as specified.

The bill would require a county to provide training to foster care public health nurses on how to use, and securely share information from, the health and education summary and the electronic health care portal, and how to securely share information from the completed and approved forms developed by the Judicial Council relating to the administration of psychotropic medication for specified dependent children. The bill would also require a county to provide information to minors and nonminor dependents in foster care, caregivers, and health care providers on how to contact the foster care public health nurse and how to request medical records and information and health education materials. The bill would require the department to provide guidance, by means of all-county letters or other similar instructions, to counties for implementation of these provisions.

The bill would require these provisions to be implemented only upon appropriation by the Legislature.

By imposing new duties on counties, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 369.5 of the Welfare and Institutions
2 Code is amended to read:
3 369.5. (a) (1) If a child is adjudged a dependent child of the
4 court under Section 300 and the child has been removed from the
5 physical custody of the parent under Section 361, only a juvenile
6 court judicial officer shall have authority to make orders regarding
7 the administration of psychotropic medications for that child. The
8 juvenile court may issue a specific order delegating this authority
9 to a parent upon making findings on the record that the parent
10 poses no danger to the child and has the capacity to authorize
11 psychotropic medications. Court authorization for the
12 administration of psychotropic medication shall be based on a
13 request from a physician, indicating the reasons for the request, a

1 description of the child’s diagnosis and behavior, the expected
2 results of the medication, and a description of any side effects of
3 the medication.

4 (2) (A) The Judicial Council shall amend and adopt rules of
5 court and develop appropriate forms for the implementation of
6 this section, in consultation with the State Department of Social
7 Services, the State Department of Health Care Services, and
8 stakeholders, including, but not limited to, the County Welfare
9 Directors Association of California, the County Behavioral Health
10 Directors Association of California, the Chief Probation Officers
11 of California, associations representing current and former foster
12 children, caregivers, and children’s attorneys. This effort shall be
13 undertaken in coordination with the updates required under
14 paragraph (2) of subdivision (a) of Section 739.5.

15 (B) The rules of court and forms developed pursuant to
16 subparagraph (A) shall address all of the following:

17 (i) The child and their caregiver and court-appointed special
18 advocate, if any, have an opportunity to provide input on the
19 medications being prescribed.

20 (ii) Information regarding the child’s overall mental health
21 assessment and treatment plan is provided to the court.

22 (iii) Information regarding the rationale for the proposed
23 medication, provided in the context of past and current treatment
24 efforts, is provided to the court. This information shall include,
25 but not be limited to, lab tests and results, information on other
26 pharmacological and nonpharmacological treatments that have
27 been utilized and the child’s response to those treatments, a
28 discussion of symptoms not alleviated or ameliorated by other
29 current or past treatment efforts, and an explanation of how the
30 psychotropic medication being prescribed is expected to improve
31 the child’s symptoms.

32 (iv) Guidance is provided to the court on how to evaluate the
33 request for authorization, including how to proceed if information,
34 otherwise required to be included in a request for authorization
35 under this section, is not included in a request for authorization
36 submitted to the court.

37 (C) The rules of court and forms developed pursuant to
38 subparagraph (A) shall include a process for periodic oversight by
39 the court of orders regarding the administration of psychotropic
40 medications that includes the caregiver’s and child’s observations

1 regarding the effectiveness of the medication and side effects,
2 information on medication management appointments and other
3 followup appointments with medical practitioners, and information
4 on the delivery of other mental health treatments that are a part of
5 the child’s overall treatment plan. The periodic oversight shall be
6 facilitated by the county social worker, public health nurse, or
7 other appropriate county staff. This oversight process shall be
8 conducted in conjunction with other regularly scheduled court
9 hearings and reports provided to the court by the county child
10 welfare agency.

11 (D) (i) By September 1, 2020, the forms developed pursuant
12 to subparagraph (A) shall include a request for authorization by
13 the child or the child’s attorney to release the child’s medical
14 information to the Medical Board of California in order to ascertain
15 whether there is excessive prescribing of psychotropic medication
16 that is inconsistent with the standard of care described in Section
17 2245 of the Business and Professions Code. The authorization
18 shall be limited to medical information relevant to the investigation
19 of the prescription of psychotropic medication, and the information
20 may only be used for the purpose set forth in this subparagraph
21 and Section 2245 of the Business and Professions Code.

22 (ii) The Medical Board of California or its representative shall
23 request the medical information obtained pursuant to this section
24 to be sealed if the medical information is admitted as an exhibit
25 in an administrative hearing pursuant to Chapter 5 (commencing
26 with Section 11500) of Part 1 of Division 3 of Title 2 of the
27 Government Code.

28 (iii) In updating the forms, as required by this subparagraph and
29 subparagraph (D) of paragraph (2) of subdivision (a) of Section
30 739.5, the Judicial Council shall consult with the State Department
31 of Social Services, the Medical Board of California, the County
32 Welfare Directors Association of California, the Chief Probation
33 Officers of California, and groups representing foster children,
34 dependency counsel, and children’s advocates to help ensure that
35 the child and the child’s attorney are provided with sufficient
36 information to understand the request for authorization to obtain
37 the child’s medical information and the reasons for the request.
38 The Judicial Council may include in the form a requirement that
39 the person completing the form affirm that the child or child’s
40 attorney has been asked about the authorization.

1 (iv) (I) By January 1, 2020, the State Department of Social
2 Services shall convene a working group consisting of the Judicial
3 Council, the Medical Board of California, the County Welfare
4 Directors Association of California, the Chief Probation Officers
5 of California, and groups representing foster children, dependency
6 counsel, and children’s advocates to consider various options for
7 seeking authorization from a dependent child, a ward, or their
8 attorney, for release of the dependent child’s or ward’s medical
9 information regarding psychotropic medication prescribed between
10 January 1, 2017, and July 1, 2020, and shall report to the
11 Legislature by April 15, 2020, on those options and on any
12 recommendations to best reach those children and their attorneys
13 to seek authorization.

14 (II) (ia) The requirement for submitting a report imposed under
15 subclause (I) is inoperative on January 1, 2024, pursuant to Section
16 10231.5 of the Government Code.

17 (ib) A report to be submitted pursuant to subclause (I) shall be
18 submitted in compliance with Section 9795 of the Government
19 Code.

20 (E) The rules of court and forms developed pursuant to
21 subparagraph (A) shall include a requirement that a physician who
22 administers psychotropic medication under an authorization
23 approved pursuant to this section shall provide to the child’s
24 caseworker and the foster care public health nurse information on
25 the labs, tests, diagnoses, treatment, discharge summary, admitting
26 history and physical, and any prescriptions for the child within ~~72~~
27 *hours five business days* of the administration of psychotropic
28 medication for the child.

29 (b) (1) In counties in which the county child welfare agency
30 completes the request for authorization for the administration of
31 psychotropic medication, the agency is encouraged to complete
32 the request within three business days of receipt from the physician
33 of the information necessary to fully complete the request.

34 (2) This subdivision does not change current local practice or
35 local court rules with respect to the preparation and submission of
36 requests for authorization for the administration of psychotropic
37 medication.

38 (c) (1) Within seven court days from receipt by the court of a
39 completed request, the juvenile court judicial officer shall either
40 approve or deny in writing a request for authorization for the

1 administration of psychotropic medication to the child, or shall,
2 upon a request by the parent, the legal guardian, or the child's
3 attorney, or upon its own motion, set the matter for hearing.

4 (2) Notwithstanding Section 827 or any other law, upon the
5 approval or denial by the juvenile court judicial officer of a request
6 for authorization for the administration of psychotropic medication,
7 the county child welfare agency or other person or entity who
8 submitted the request shall provide a copy of the court order
9 approving or denying the request to the child's caregiver and the
10 foster care public health nurse.

11 (d) Psychotropic medication or psychotropic drugs are those
12 medications administered for the purpose of affecting the central
13 nervous system to treat psychiatric disorders or illnesses. These
14 medications include, but are not limited to, anxiolytic agents,
15 antidepressants, mood stabilizers, antipsychotic medications,
16 anti-Parkinson agents, hypnotics, medications for dementia, and
17 psychostimulants.

18 (e) This section does not supersede local court rules regarding
19 a minor's right to participate in mental health decisions.

20 (f) This section does not apply to nonminor dependents, as
21 defined in subdivision (v) of Section 11400.

22 (g) *The amendments made to this section by the act that added*
23 *this subdivision shall be implemented only upon an appropriation*
24 *by the Legislature for these purposes in the annual Budget Act or*
25 *other statute.*

26 SEC. 2. Section 16010.1 is added to the Welfare and
27 Institutions Code, to read:

28 16010.1. (a) The State Department of Social Services shall
29 create an electronic health care portal, or use an existing electronic
30 portal, that will provide health care providers with access to both
31 of the following:

32 (1) Health information of a child in foster care that is included
33 in the health and education summary described in Section 16010.

34 (2) The completed and approved forms developed by the Judicial
35 Council relating to the administration of psychotropic medication
36 for specified dependent children, as described in Section 369.5.

37 (b) A foster care public health nurse shall add and update the
38 information described in paragraphs (1) and (2) of subdivision (a)
39 in the electronic portal.

1 (c) Health care providers of a child in foster care shall have
2 access to the electronic health care portal created pursuant to this
3 section when providing health care services and medical treatment
4 to the child.

5 (d) *The department shall implement this section only upon an*
6 *appropriation by the Legislature for these purposes in the annual*
7 *Budget Act or other statute.*

8 SEC. 3. Section 16501.3 of the Welfare and Institutions Code
9 is amended to read:

10 16501.3. (a) The State Department of Social Services shall
11 establish and maintain a program of public health nursing in the
12 child welfare services program that meets the federal requirements
13 for the provision of health care to minor and nonminor dependents
14 in foster care consistent with Section 30026.5 of the Government
15 Code. The purpose of the public health nursing program shall be
16 to promote and enhance the physical, mental, dental, and
17 developmental well-being of children in the child welfare system.

18 (b) Under this program, counties shall use the services of a foster
19 care public health nurse. The foster care public health nurse shall
20 work with the appropriate child welfare services workers to
21 coordinate health care services and serve as a liaison with health
22 care professionals and other providers of health-related services.
23 This shall include coordination with county mental health plans
24 and local health jurisdictions, as appropriate. In order to fulfill
25 these duties, the foster care public health nurse shall have access
26 to the child's medical, dental, and mental health care information,
27 in a manner that is consistent with all relevant privacy
28 requirements.

29 (c) The duties of a foster care public health nurse shall include,
30 but need not be limited to, the following:

31 (1) Documenting that each child in foster care receives initial
32 and followup health screenings that meet reasonable standards of
33 medical practice.

34 (2) Collecting health information and other relevant data on
35 each foster child as available, receiving all collected information
36 to determine appropriate referral and services, and expediting
37 referrals to providers in the community for early intervention
38 services, specialty services, dental care, mental health services,
39 and other health-related services necessary for the child.

1 (3) Participating in medical care planning and coordinating for
2 the child. This may include, but is not limited to, assisting case
3 workers in arranging for comprehensive health and mental health
4 assessments, interpreting the results of health assessments or
5 evaluations for the purpose of case planning and coordination,
6 facilitating the acquisition of any necessary court authorizations
7 for procedures or medications, monitoring and oversight of
8 psychotropic medications, advocating for the health care needs of
9 the child, and ensuring the creation of linkage among various
10 providers of care.

11 (4) (A) Updating the electronic health care portal described in
12 Section 16010.1 and the health and education summary described
13 in Section 16010 with the child’s medical, dental, and mental health
14 care information, as described in those sections, whenever there
15 is new information. In order to fulfill these duties, when a child
16 and family team meeting has been conducted, the placing agency
17 caseworker shall provide the foster care public health nurse with
18 the written results of the meeting.

19 (B) Providing the child’s medical, dental, and mental health
20 care information, including, but not limited to, the completed and
21 approved forms developed by the Judicial Council relating to the
22 administration of psychotropic medication for specified dependent
23 children, as described in Sections 369.5, in a manner that is
24 consistent with all relevant privacy requirements, to the following
25 individuals:

26 (i) Health care providers who are providing the child with health
27 care services and medical treatment, and no later than five days
28 before the child’s appointment with the health care provider.

29 (ii) The child or their caregiver within 24 hours of a request
30 from the child or caregiver.

31 (5) Providing followup contact to assess the child’s progress in
32 meeting treatment goals.

33 (6) At the request of and under the direction of a nonminor
34 dependent, as described in subdivision (v) of Section 11400,
35 assisting the nonminor dependent in accessing their medical, dental,
36 and mental health care information, accessing physical health and
37 mental health care, coordinating the delivery of health and mental
38 health care services, advocating for the health and mental health
39 care that meets the needs of the nonminor dependent, assisting the
40 nonminor dependent to make informed decisions about their health

1 care by, at a minimum, providing educational materials, and
2 assisting the nonminor dependent to assume responsibility for their
3 ongoing physical and mental health care management.

4 (d) The services provided by foster care public health nurses
5 under this section shall be limited to those for which reimbursement
6 may be claimed under Title XIX of the federal Social Security Act
7 at an enhanced rate for services delivered by skilled professional
8 medical personnel. Notwithstanding any other law, this section
9 shall be implemented only if, and to the extent that, the department
10 determines that federal financial participation, as provided under
11 Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396
12 et seq.), is available.

13 (e) (1) The State Department of Health Care Services shall seek
14 any necessary federal approvals for child welfare agencies to
15 appropriately claim enhanced federal Title XIX funds for services
16 provided pursuant to this section.

17 (2) Commencing in the fiscal year immediately following the
18 fiscal year in which the necessary federal approval pursuant to
19 paragraph (1) is secured, county child welfare agencies shall
20 provide health care oversight and coordination services pursuant
21 to this section, and may accomplish this through agreements with
22 local public health agencies.

23 (f) (1) Notwithstanding Section 10101, prior to the 2011–12
24 fiscal year, there shall be no required county match of the
25 nonfederal cost of this program.

26 (2) Commencing in the 2011–12 fiscal year, and each fiscal
27 year thereafter, funding and expenditures for programs and
28 activities under this section shall be in accordance with the
29 requirements provided in Sections 30025 and 30026.5 of the
30 Government Code.

31 (g) Public health nurses shall receive training developed pursuant
32 to subdivision (d) of Section 16501.4.

33 (h) A county shall provide training to foster care public health
34 nurses on how to use, and securely share information from, the
35 health and education summary described in Section 16010 and the
36 electronic health care portal described in Section 16010.1, and
37 how to securely share information from the completed and
38 approved forms developed by the Judicial Council relating to the
39 administration of psychotropic medication for specified dependent
40 children, as described in Section 369.5.

1 (i) A county shall provide information to minors and nonminor
2 dependents in foster care, caregivers, and health care providers on
3 how to contact the foster care public health nurse and how to
4 request medical records and information and health education
5 materials.

6 (j) Notwithstanding Chapter 3.5 (commencing with Section
7 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
8 the department shall provide guidance to counties in implementing
9 subdivisions (h) and (i) by means of all-county letters or other
10 similar instructions.

11 (k) *The amendments made to this section by the act that added*
12 *this subdivision shall be implemented only upon an appropriation*
13 *by the Legislature for these purposes in the annual Budget Act or*
14 *other statute.*

15 SEC. 4. To the extent that this act has an overall effect of
16 increasing the costs already borne by a local agency for programs
17 or levels of service mandated by the 2011 Realignment Legislation
18 within the meaning of Section 36 of Article XIII of the California
19 Constitution, it shall apply to local agencies only to the extent that
20 the state provides annual funding for the cost increase. Any new
21 program or higher level of service provided by a local agency
22 pursuant to this act above the level for which funding has been
23 provided shall not require a subvention of funds by the state or
24 otherwise be subject to Section 6 of Article XIII B of the California
25 Constitution.