

AMENDED IN ASSEMBLY MARCH 28, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2117**

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**Introduced by Assembly Member Evans**

February 20, 2008

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An act to amend Section 369.5 of the Welfare and Institutions Code, relating to dependent children.

LEGISLATIVE COUNSEL'S DIGEST

AB 2117, as amended, Evans. Dependent children: psychotropic medications.

Existing law authorizes only a juvenile court judicial officer to make orders regarding the administration of psychotropic medications for a dependent child who has been removed from the physical custody of his or her parent. Existing law requires the court authorization for the administration of psychotropic medication to 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. Existing law requires the officer to approve or deny the request for authorization to administer psychotropic medication, or set the matter for hearing, as specified, within 7 court days.

This bill would expand the authority of a juvenile court judicial officer to make orders regarding the administration of psychotropic medications to include a dependent child who has been removed from the physical custody of his or her guardian, or a child who has been removed from the physical custody of a parent or guardian pending adjudication as a dependent child. The bill would require the physician or other health care professional submitting the request for psychotropic medication

to have conducted an ~~appropriate~~ examination of the child. The bill would require the juvenile court judicial officer, before authorizing the administration of psychotropic medication, to make a finding that the child's caregiver has been informed, and the child has been informed in an ~~age-appropriate~~ *age and developmentally-appropriate* manner, ~~of the expected results of the medication, significant about the recommended medications, the anticipated benefits, the possible side effects, and any other recommended treatments, and that the child has been informed of his or her~~ *the* right to request a hearing.

This bill would require a dependent child to be present in court for any hearing on the request for authorization to administer psychotropic medication, except as specified. The bill would require the court to make specified orders upon authorizing the administration of psychotropic medication to a child. The bill would require the county child welfare agency to include or attach specified information in all reports provided to the juvenile court following court authorization for the administration of psychotropic medication to a child. By requiring social workers to comply with these new duties, the bill would impose a state-mandated local program.

This bill would require the State Department of Mental Health, on or before July 1, 2009, to identify or develop and make available written materials to assist county welfare agencies and mental health care providers in providing age-appropriate information to minors concerning psychotropic medications.

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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

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) If a child is adjudged a dependent child of the court
- 4 under Section 300 and the child has been removed from the

1 physical custody of the parent or guardian under Section 361, or  
2 if the child has been removed from the physical custody of a parent  
3 or guardian pending adjudication pursuant to Section 319, only a  
4 juvenile court judicial officer shall have authority to make orders  
5 regarding the administration of psychotropic medications for that  
6 child. The juvenile court may issue a specific order delegating this  
7 authority to a parent or guardian upon making findings on the  
8 record that the parent or guardian poses no danger to the child and  
9 has the capacity to authorize psychotropic medications. *Court*  
10 *authorization for the administration of psychotropic medication*  
11 *shall be based on a request from a physician, indicating the reasons*  
12 *for the request, a description of the child's diagnosis and behavior,*  
13 *the child's medical history, the expected results of the medication,*  
14 *and a description of any side effects of the medication.*

15 (b) The physician or other health care professional submitting  
16 the request for psychotropic medication shall have conducted an  
17 appropriate examination of the child in compliance with  
18 ~~subdivision (a) of~~ Section 2242 of the Business and Professions  
19 Code.

20 (c) Before authorizing the administration of psychotropic  
21 medication, the juvenile court judicial officer shall make a finding  
22 that the child's caregiver has been informed, and the child has been  
23 informed in an ~~age-appropriate manner, of the expected results of~~  
24 ~~the medication, significant age and developmentally-appropriate~~  
25 *manner about the recommended medications, the anticipated*  
26 *benefits, the possible side effects, and any other recommended*  
27 *treatments, and that the child has been informed of the right to*  
28 *request a hearing pursuant to subdivision (h). On or before July 1,*  
29 *2009, the State Department of Mental Health shall identify or*  
30 *develop and make available written materials to assist county*  
31 *welfare agencies and mental health care providers in providing*  
32 *age-appropriate information to minors concerning psychotropic*  
33 *medications.*

34 (d) If a hearing is conducted pursuant to subdivision (h), the  
35 child shall be present in court for the hearing unless the child  
36 ~~declines to attend~~ *waives the right to attend after consulting with*  
37 *counsel* or the court finds that there is good cause for the child's  
38 absence from the proceedings.

1 (e) Upon authorizing the administration of psychotropic  
2 medication to a child, the court shall make any orders necessary  
3 to ensure both of the following:

4 (1) That the child receives any concurrent therapy, behavioral  
5 intervention, or other treatment recommended by the child's  
6 physician and other treatment providers to address the child's  
7 mental health needs and to ensure the effectiveness of the  
8 medication.

9 (2) That a plan is in place for regular monitoring of the  
10 effectiveness of the medication and any side effects by the child's  
11 caregiver and mental health care providers.

12 (f) In all reports provided to the juvenile court following court  
13 authorization for the administration of psychotropic medication  
14 to a child, the county child welfare agency shall include or attach  
15 all of the following:

16 ~~(1) Information from the child's physician and other mental~~  
17 ~~health care providers concerning the effectiveness of the medication~~  
18 ~~and any side effects experienced by the child, and any statements~~  
19 ~~by the child regarding the medication.~~

20 ~~(2) Any~~ *If applicable, any steps recommended by the child's*  
21 ~~mental physician and other health care providers to increase the~~  
22 ~~effectiveness of the medication or, to reduce side effects, or to~~  
23 ~~obviate the need for continued administration of the medication.~~

24 (3) *The child's progress toward meeting the goals as outlined*  
25 *in the child's treatment plan and in any concurrent therapy or other*  
26 *mental health treatment.*

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

32 (2) Nothing in this subdivision is intended to change current  
33 local practice or local court rules with respect to the preparation  
34 and submission of requests for authorization for the administration  
35 of psychotropic medication.

36 (h) Within seven court days from receipt by the court of a  
37 completed request, the juvenile court judicial officer shall either  
38 approve or deny in writing a request for authorization for the  
39 administration of psychotropic medication to the child, or shall,

1 upon a request by the parent, the legal guardian, or the child's  
2 attorney, or upon its own motion, set the matter for hearing.

3 (i) Psychotropic medication or psychotropic drugs are those  
4 medications administered for the purpose of affecting the central  
5 nervous system to treat psychiatric disorders or illnesses. These  
6 medications include, but are not limited to, anxiolytic agents,  
7 antidepressants, mood stabilizers, antipsychotic medications,  
8 anti-Parkinson agents, hypnotics, medications for dementia, and  
9 psychostimulants.

10 (j) Nothing in this section is intended to supersede local court  
11 rules regarding a minor's right to participate in mental health  
12 decisions.

13 SEC. 2. If the Commission on State Mandates determines that  
14 this act contains costs mandated by the state, reimbursement to  
15 local agencies and school districts for those costs shall be made  
16 pursuant to Part 7 (commencing with Section 17500) of Division  
17 4 of Title 2 of the Government Code.