

AMENDED IN SENATE JUNE 5, 2008  
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**  
*(Coauthor: Assembly Member Spitzer)*

February 20, 2008

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An act to amend ~~Section 369.5~~ *Sections 369.5 and 739.5* 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 *or a ward* 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 *or ward'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 *or ward* who has been removed from the physical custody of his or her *parent or 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 examination of the child *or ward*. *The bill would require the physician's request to indicate additional information, including the child's medical history and a description of any clinically indicated therapy recommended for the child to participate in during the 6-month period until the next court review of the psychotropic medication.* The bill would require the juvenile court judicial officer, before authorizing the administration of psychotropic medication, to make a ~~finding~~ *certain findings, including that the child's or ward's caregiver has been informed, and the child or ward has been informed in an age and ~~developmentally-appropriate~~ developmentally appropriate manner, about the recommended medications, the anticipated benefits, the possible side effects, and any other recommended treatments, and that the child or ward has been informed of the right to request a hearing and that a plan is in place for regular monitoring of the medication, as specified.*

This bill would require a dependent child *or ward* 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 *or ward*. The bill would require the county child welfare agency *or county probation department* 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 *or ward*. 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  
5 physical custody of the parent or guardian under Section 361, or  
6 if the child has been removed from the physical custody of a parent  
7 or guardian pending adjudication pursuant to Section 319, only a  
8 juvenile court judicial officer shall have authority to make orders  
9 regarding the administration of psychotropic medications for that  
10 child. The juvenile court may issue a specific order delegating this  
11 authority to a parent or guardian upon making findings on the  
12 record that the parent or guardian poses no danger to the child and  
13 has the capacity to authorize psychotropic medications. Court  
14 authorization for the administration of psychotropic medication  
15 shall be based on a request from a physician, indicating the reasons  
16 for the request, a description of the child's diagnosis and behavior,  
17 the child's medical history, the expected results of the medication,  
18 ~~and~~ a description of any side effects of the medication, *and a*  
19 *description of any clinically indicated therapy recommended for*  
20 *the child to participate in during the six-month period until the*  
21 *next court review of psychotropic medication.*

22 (b) The physician or other health care professional submitting  
23 the request for psychotropic medication shall have conducted an  
24 examination of the child in compliance with Section 2242 of the  
25 Business and Professions Code.

26 (c) Before authorizing the administration of psychotropic  
27 medication, the juvenile court judicial officer shall make ~~a finding~~  
28 ~~that the~~ *the following findings:*

29 (1) *The child's caregiver has been informed, and the child has*  
30 *been informed in an age and—developmentally-appropriate*  
31 *developmentally appropriate* manner about the recommended  
32 medications, the anticipated benefits, the possible side effects, and  
33 any other recommended treatments, and that the child has been

1 informed of the right to request a hearing pursuant to subdivision  
2 ~~(h)~~ (g). On or before July 1, 2009, the State Department of Mental  
3 Health shall identify or develop and make available written  
4 materials to assist county welfare agencies and mental health care  
5 providers in providing age-appropriate information to minors  
6 concerning psychotropic medications.

7 (2) *A plan is in place for regular monitoring of the child's*  
8 *medication plan, the effectiveness of the medication, and any*  
9 *potential side effects, by the physician in consultation with the*  
10 *child's caregiver, mental health care provider, and others who*  
11 *have contact with the child, as appropriate.*

12 (d) If a hearing is conducted pursuant to subdivision ~~(h)~~ (g), the  
13 child shall be present in court for the hearing unless the child  
14 waives the right to attend after consulting with counsel or the court  
15 finds that there is good cause for the child's absence from the  
16 proceedings.

17 ~~(e) Upon authorizing the administration of psychotropic~~  
18 ~~medication to a child, the court shall make any orders necessary~~  
19 ~~to ensure both of the following:~~

20 ~~(1) That the child receives any concurrent therapy, behavioral~~  
21 ~~intervention, or other treatment recommended by the child's~~  
22 ~~physician and other treatment providers to address the child's~~  
23 ~~mental health needs and to ensure the effectiveness of the~~  
24 ~~medication.~~

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

28 ~~(f)~~

29 (e) In all reports provided to the juvenile court following court  
30 authorization for the administration of psychotropic medication  
31 to a child, the county child welfare agency shall include or attach  
32 all of the following:

33 (1) Information concerning the effectiveness of the medication  
34 ~~and as reported by the physician or other health care provider,~~  
35 any side effects experienced by the child, and any statements by  
36 the child regarding the medication.

37 (2) If applicable, any steps recommended by the child's  
38 physician and other health care providers to increase the  
39 effectiveness of the medication, to reduce side effects, or to obviate  
40 the need for continued administration of the medication.

1 (3) The child’s progress toward meeting the goals as outlined  
2 in the child’s treatment plan and in any concurrent therapy or other  
3 mental health treatment.

4 ~~(g)~~

5 (f) (1) In counties in which the county child welfare agency  
6 completes the request for authorization for the administration of  
7 psychotropic medication, the agency is encouraged to complete  
8 the request within three business days of receipt from the physician  
9 of the information necessary to fully complete the request.

10 (2) Nothing in this subdivision is intended to change current  
11 local practice or local court rules with respect to the preparation  
12 and submission of requests for authorization for the administration  
13 of psychotropic medication.

14 ~~(h)~~

15 (g) Within seven court days from receipt by the court of a  
16 completed request, the juvenile court judicial officer shall either  
17 approve or deny in writing a request for authorization for the  
18 administration of psychotropic medication to the child, or shall,  
19 upon a request by the parent, the legal guardian, or the child’s  
20 attorney, or upon its own motion, set the matter for hearing.

21 ~~(i)~~

22 (h) Psychotropic medication or psychotropic drugs are those  
23 medications administered for the purpose of affecting the central  
24 nervous system to treat psychiatric disorders or illnesses. These  
25 medications include, but are not limited to, anxiolytic agents,  
26 antidepressants, mood stabilizers, antipsychotic medications,  
27 anti-Parkinson agents, hypnotics, medications for dementia, and  
28 psychostimulants.

29 ~~(j)~~

30 (i) Nothing in this section is intended to supersede local court  
31 rules regarding a minor’s right to participate in mental health  
32 decisions.

33 *SEC. 2. Section 739.5 of the Welfare and Institutions Code is*  
34 *amended to read:*

35 739.5. (a) If a minor who has been adjudged a ward of the  
36 court under Section 601 or 602 is removed from the physical  
37 custody of the parent under Section 726 and placed into foster  
38 care, as defined in Section 727.4, only a juvenile court judicial  
39 officer shall have authority to make orders regarding the  
40 administration of psychotropic medications for that minor. The

1 juvenile court may issue a specific order delegating this authority  
2 to a parent upon making findings on the record that the parent  
3 poses no danger to the minor and has the capacity to authorize  
4 psychotropic medications. Court authorization for the  
5 administration of psychotropic medication shall be based on a  
6 request from a physician, indicating the reasons for the request, a  
7 description of the minor's diagnosis and behavior, *the minor's*  
8 *medical history*, the expected results of the medication, ~~and~~ a  
9 description of any side effects of the medication, *and a description*  
10 *of any clinically indicated therapy recommended for the child to*  
11 *participate in during the six-month period until the next court*  
12 *review of psychotropic medication*. On or before July 1, 2008, the  
13 Judicial Council shall adopt rules of court and develop appropriate  
14 forms for implementation of this section.

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

19 (c) *Before authorizing the administration of psychotropic*  
20 *medication, the juvenile court judicial officer shall make the*  
21 *following findings:*

22 (1) *The minor's caregiver has been informed, and the minor*  
23 *has been informed in an age and developmentally appropriate*  
24 *manner, about the recommended medications, the anticipated*  
25 *benefits, the possible side effects, and any other recommended*  
26 *treatments, and that the minor has been informed of the right to*  
27 *request a hearing pursuant to subdivision (g). On or before July*  
28 *1, 2009, the State Department of Mental Health shall identify or*  
29 *develop and make available written materials to assist county*  
30 *welfare agencies and mental health care providers in providing*  
31 *age-appropriate information to minors concerning psychotropic*  
32 *medications*.

33 (2) *A plan is in place for regular monitoring of the minor's*  
34 *medication plan, the effectiveness of the medication, and any*  
35 *potential side effects, by the physician in consultation with the*  
36 *minor's caregiver, mental health care providers, and others who*  
37 *have contact with the minor, as appropriate*.

38 (d) *If a hearing is conducted pursuant to subdivision (g), the*  
39 *minor shall be present in a court for the hearing unless the minor*  
40 *waives the right to attend after consulting with counsel or the court*

1 *finds that there is good cause for the minor's absence from the*  
2 *proceedings.*

3 *(e) In all reports provided to the juvenile court following court*  
4 *authorization for the administration of psychotropic medication*  
5 *to a minor, the county probation department shall include or attach*  
6 *all of the following:*

7 *(1) Information concerning the effectiveness of the medication*  
8 *as reported by the physician or other health care provider, any*  
9 *side effects experienced by the minor, and any statements by the*  
10 *minor regarding the medication.*

11 *(2) If applicable, any steps recommended by the minor's*  
12 *physician and other health care providers to increase the*  
13 *effectiveness of the medication, to reduce side effects, or to obviate*  
14 *the need of continued administration of the medication.*

15 *(3) The minor's progress toward meeting the goals as outlined*  
16 *in the minor's treatment plan and in any concurrent therapy or*  
17 *other mental health treatment.*

18 ~~(b)~~

19 *(f) (1) The agency that completes the request for authorization*  
20 *for the administration of psychotropic medication is encouraged*  
21 *to complete the request within three business days of receipt from*  
22 *the physician of the information necessary to fully complete the*  
23 *request.*

24 *(2) Nothing in this subdivision is intended to change current*  
25 *local practice or local court rules with respect to the preparation*  
26 *and submission of requests for authorization for the administration*  
27 *of psychotropic medication.*

28 ~~(e)~~

29 *(g) Within seven court days from receipt by the court of a*  
30 *completed request, the juvenile court judicial officer shall either*  
31 *approve or deny in writing a request for authorization for the*  
32 *administration of psychotropic medication to the minor, or shall,*  
33 *upon a request by the parent, the legal guardian, or the minor's*  
34 *attorney, or upon its own motion, set the matter for hearing.*

35 ~~(d)~~

36 *(h) Psychotropic medication or psychotropic drugs are those*  
37 *medications administered for the purpose of affecting the central*  
38 *nervous system to treat psychiatric disorders or illnesses. These*  
39 *medications include, but are not limited to, anxiolytic agents,*  
40 *antidepressants, mood stabilizers, antipsychotic medications,*

1 anti-Parkinson agents, hypnotics, medications for dementia, and  
2 psychostimulants.

3 (e)

4 (i) Nothing in this section is intended to supersede local court  
5 rules regarding a minor's right to participate in mental health  
6 decisions.

7 ~~SEC. 2.~~

8 *SEC. 3.* If the Commission on State Mandates determines that  
9 this act contains costs mandated by the state, reimbursement to  
10 local agencies and school districts for those costs shall be made  
11 pursuant to Part 7 (commencing with Section 17500) of Division  
12 4 of Title 2 of the Government Code.