

Introduced by Senator Pavley

February 18, 2011

An act to amend Section 739 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 913, as amended, Pavley. Juvenile offenders: medical care.

Under existing law, when a minor is taken into temporary custody and is in need of medical, surgical, dental, or other remedial care, the probation officer may authorize the performance of ~~the medical, surgical, dental, or other remedial~~ *that* care, as specified. Existing law requires the probation officer to notify the minor's parent or guardian prior to the provision of the medical care.

This bill would additionally permit a probation officer to authorize a medical exam that complies with the regulations promulgated by the Corrections Standards Authority, without regard to the minor's need for medical care. The bill would also provide that the officer may, if he or she first makes an unspecified effort, authorize the performance of reasonable medical or dental care if the minor is in need of the care and upon the recommendation of the attending physician or dentist. *The bill would additionally authorize any followup treatment recommended by the physician as a result of the medical exam, if the minor remains in the temporary custody of the probation officer.* This bill would also require the probation officer to make reasonable efforts to notify and obtain the consent of the minor's parent or guardian prior to the provision of the medical or dental care.

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

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

1 SECTION 1. Section 739 of the Welfare and Institutions Code
2 is amended to read:
3 739. (a) Whenever any person is taken into temporary custody
4 under Article 15 (commencing with Section 625), the probation
5 officer may authorize a medical exam that complies with the
6 regulations promulgated by the Corrections Standards Authority.
7 If the person is in need of medical, surgical, dental, or other
8 remedial care, provided the probation officer first makes a
9 reasonable effort, the probation officer may, upon the
10 recommendation of the attending physician and surgeon or, if the
11 person needs dental care and there is an attending dentist, the
12 attending dentist, authorize the performance of that medical,
13 surgical, dental, or other remedial care. *The probation officer may*
14 *also authorize any followup treatment recommended by the*
15 *physician as a result of the medical exam, if the minor remains in*
16 *the temporary custody of the probation officer.* The probation
17 officer shall make reasonable efforts to notify and obtain the
18 consent of the parent, guardian, or person standing in loco parentis
19 of the person, if any, of the care found to be needed before the care
20 is provided, and if the parent, guardian, or person standing in loco
21 parentis objects, the care shall be given only upon order of the
22 court in the exercise of its discretion.
23 (b) Whenever it appears to the juvenile court that any person
24 concerning whom a petition has been filed with the court is in need
25 of medical, surgical, dental, or other remedial care, and that there
26 is no parent, guardian, or person standing in loco parentis capable
27 of authorizing or willing to authorize the remedial care or treatment
28 for that person, the court, upon the written recommendation of a
29 licensed physician and surgeon or, if the person needs dental care,
30 a licensed dentist, and after due notice to the parent, guardian, or
31 person standing in loco parentis, if any, may make an order
32 authorizing the performance of the necessary medical, surgical,
33 dental, or other remedial care for that person.
34 (c) Whenever a person is placed by order of the juvenile court
35 within the care and custody or under the supervision of the

1 probation officer of the county in which the person resides and it
2 appears to the court that there is no parent, guardian, or person
3 standing in loco parentis capable of authorizing or willing to
4 authorize medical, surgical, dental, or other remedial care or
5 treatment for the person, the court may, after due notice to the
6 parent, guardian, or person standing in loco parentis, if any, order
7 that the probation officer may authorize the medical, surgical,
8 dental, or other remedial care for the person by licensed
9 practitioners, as may from time to time appear necessary.

10 (d) Whenever it appears that a minor otherwise within
11 subdivision (a), (b), or (c) requires immediate emergency medical,
12 surgical, or other remedial care in an emergency situation, that
13 care may be provided by a licensed physician and surgeon or, if
14 the minor needs dental care in an emergency situation, by a licensed
15 dentist, without a court order and upon authorization of a probation
16 officer. If the minor needs foot or ankle care within the scope of
17 practice of podiatric medicine, as defined in Section 2472 of the
18 Business and Professions Code, a probation officer may authorize
19 the care to be provided by a podiatrist after obtaining the advice
20 and concurrence of a physician and surgeon. The probation officer
21 shall make reasonable efforts to obtain the consent of, or to notify,
22 the parent, guardian, or person standing in loco parentis prior to
23 authorizing emergency medical, surgical, dental, or other remedial
24 care. "Emergency situation," for the purposes of this subdivision
25 means a minor requires immediate treatment for the alleviation of
26 severe pain or an immediate diagnosis and treatment of an
27 unforeseeable medical, surgical, dental, or other remedial condition
28 or contagious disease which if not immediately diagnosed and
29 treated, would lead to serious disability or death.

30 (e) In any case in which the court orders the performance of
31 any medical, surgical, dental, or other remedial care pursuant to
32 this section, the court may also make an order authorizing the
33 release of information concerning that care to probation officers,
34 parole officers, or any other qualified individuals or agencies caring
35 for or acting in the interest and welfare of the minor under order,
36 commitment, or approval of the court.

37 (f) Nothing in this section shall be construed as limiting the
38 right of a parent, guardian, or person standing in loco parentis,
39 who has not been deprived of the custody or control of the minor
40 by order of the court, in providing any medical, surgical, dental,

1 or other remedial treatment recognized or permitted under the laws
2 of this state.

3 (g) The parent of any person described in this section may
4 authorize the performance of medical, surgical, dental, or other
5 remedial care provided for in this section notwithstanding his or
6 her age or marital status. In nonemergency situations the parent
7 authorizing the care shall notify the other parent prior to the
8 administration of the care.

9 (h) *Nothing in this section shall be construed to interfere with*
10 *a minor's right to make medical decisions pursuant to existing*
11 *law.*