

AMENDED IN SENATE APRIL 14, 2011

AMENDED IN SENATE MARCH 29, 2011

SENATE BILL

No. 913

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 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,~~ *permit the probation officer to 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, as specified.* The bill would ~~additionally authorize any followup treatment recommended by the physician as a result of the medical exam, if the minor remains~~ *permit the probation officer to authorize additional treatment necessary for the health of the minor and recommended by the physician 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, remedial care, and the probation officer has~~
10 ~~made a reasonable but unsuccessful effort to notify the parent,~~
11 ~~guardian, or person standing in loco parentis of the person,~~ the
12 probation officer may, upon the recommendation of the attending
13 physician and surgeon or, if the person needs dental care and there
14 is an attending dentist, the attending dentist, authorize the
15 performance of that medical, surgical, dental, or other remedial
16 care. The probation officer ~~may also authorize any followup~~
17 ~~treatment recommended by the physician as a result of the medical~~
18 ~~exam, if the minor remains in~~ *also may authorize additional*
19 *treatment necessary for the health of the minor that is*
20 *recommended by the physician as a result of the medical*
21 *examination, provided that the minor remains in the temporary*
22 *custody of the probation officer. The probation officer shall make*
23 *reasonable efforts to notify and obtain the consent of the parent,*
24 *guardian, or person standing in loco parentis of the person, if any,*
25 *of the care found to be needed before the care is provided, and if*
26 *the parent, guardian, or person standing in loco parentis objects,*
27 *the care shall be given only upon order of the court in the exercise*
28 *of its discretion.*

29 (b) Whenever it appears to the juvenile court that any person
30 concerning whom a petition has been filed with the court is in need
31 of medical, surgical, dental, or other remedial care, and that there
32 is no parent, guardian, or person standing in loco parentis capable
33 of authorizing or willing to authorize the remedial care or treatment

1 for that person, the court, upon the written recommendation of a
2 licensed physician and surgeon or, if the person needs dental care,
3 a licensed dentist, and after due notice to the parent, guardian, or
4 person standing in loco parentis, if any, may make an order
5 authorizing the performance of the necessary medical, surgical,
6 dental, or other remedial care for that person.

7 (c) Whenever a person is placed by order of the juvenile court
8 within the care and custody or under the supervision of the
9 probation officer of the county in which the person resides and it
10 appears to the court that there is no parent, guardian, or person
11 standing in loco parentis capable of authorizing or willing to
12 authorize medical, surgical, dental, or other remedial care or
13 treatment for the person, the court may, after due notice to the
14 parent, guardian, or person standing in loco parentis, if any, order
15 that the probation officer may authorize the medical, surgical,
16 dental, or other remedial care for the person by licensed
17 practitioners, as may from time to time appear necessary.

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

38 (e) In any case in which the court orders the performance of
39 any medical, surgical, dental, or other remedial care pursuant to
40 this section, the court may also make an order authorizing the

1 release of information concerning that care to probation officers,
2 parole officers, or any other qualified individuals or agencies caring
3 for or acting in the interest and welfare of the minor under order,
4 commitment, or approval of the court.

5 (f) Nothing in this section shall be construed as limiting the
6 right of a parent, guardian, or person standing in loco parentis,
7 who has not been deprived of the custody or control of the minor
8 by order of the court, in providing any medical, surgical, dental,
9 or other remedial treatment recognized or permitted under the laws
10 of this state.

11 (g) The parent of any person described in this section may
12 authorize the performance of medical, surgical, dental, or other
13 remedial care provided for in this section notwithstanding his or
14 her age or marital status. In nonemergency situations the parent
15 authorizing the care shall notify the other parent prior to the
16 administration of the care.

17 (h) Nothing in this section shall be construed to interfere with
18 a minor's right to make medical decisions pursuant to existing
19 law.