

Senate Bill No. 528

CHAPTER 338

An act to amend Sections 369, 16001.9, and 16002.5 of the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 23, 2013. Filed with
Secretary of State September 23, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 528, Yee. Dependents: care and treatment: minor parents and nonminor dependent parents.

Under existing law, minors are authorized to consent to medical and other treatment under certain circumstances, including the diagnosis and treatment of sexual assault, medical care relating to the prevention or treatment of pregnancy, treatment of infectious, contagious, and communicable diseases, mental health treatment, and treatment for alcohol and drug abuse.

Under existing law, a child may come within the jurisdiction of the juvenile court and become a dependent child of the court under certain circumstances, including in cases of abuse and neglect. Under existing law, when a minor has been, or has a petition filed with the court to be, adjudged a dependent child of the court, the court may authorize, or order that a social worker may authorize, medical and other care for the minor, as prescribed. Under existing law, a social worker may, without court order, authorize medical and other care for a minor in emergency situations, as specified.

This bill would specify that nothing in those provisions shall be construed to limit the rights of dependent children to consent to specified types of medical and other care, including the diagnosis and treatment of sexual assault, medical care relating to the prevention or treatment of pregnancy, treatment of infectious, contagious, and communicable diseases, mental health treatment, and treatment for alcohol and drug abuse. This bill would authorize a dependent child's social worker, if the child is 12 years of age or older, to inform the child of his or her right as a minor to consent to and receive those health services. This bill would authorize social workers to provide dependent children with access to age-appropriate, medically accurate information about sexual development, reproductive health, and prevention of unplanned pregnancies and sexually transmitted infections.

Existing law declares the intent of the Legislature to maintain the continuity of the family unit and to support and preserve families headed by minor parents and nonminor dependent parents, as defined, and provides that, to the greatest extent possible, minor parents and their children living in foster care shall be provided with access to services that target supporting, maintaining, and developing the parent-child bond and the dependent parent's ability to provide a permanent and safe home for the child. Under

existing law, minor parents are required to be given the ability to attend school, complete homework, and participate in age and developmentally appropriate activities separate from parenting. Existing law requires foster care placements for minor parents and their children to demonstrate a willingness and ability to provide support and assistance to minor parents and their children.

This bill would declare the intent of the Legislature to ensure that complete and accurate data on parenting minor and nonminor dependents is collected, as specified, and would authorize child welfare agencies to provide minor parents and nonminor dependent parents with access to social workers or resource specialists who have received specified training. The bill would encourage child welfare agencies to update the case plans for pregnant and parenting dependents within 60 calendar days of the date the agency is informed of a pregnancy, and would authorize those agencies to hold a specialized conference, as prescribed, to assist the pregnant or parenting foster youth and nonminor dependents with planning for healthy parenting, among other things. The bill would additionally require nonminor dependent parents to be given the ability to attend school, complete homework, and participate in age and developmentally appropriate activities separate from parenting. This bill would authorize child welfare agencies, local educational agencies, and child care resource and referral agencies to make reasonable and coordinated efforts to ensure that minor parents and nonminor dependent parents who have not completed high school have access to school programs that provide onsite or coordinated child care. This bill would additionally require foster care placements for nonminor dependent parents and their children to demonstrate a willingness and ability to provide support and assistance to nonminor dependent parents and their children.

Existing law provides that it is the policy of the state that foster children have specified rights.

This bill would instead specify that all minors and nonminors in foster care have those rights. The bill would provide that foster children also have the right, at 12 years of age or older, to receive information regarding specified health care services.

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

SECTION 1. Section 369 of the Welfare and Institutions Code is amended to read:

369. (a) Whenever a person is taken into temporary custody under Article 7 (commencing with Section 305) and is in need of medical, surgical, dental, or other remedial care, the social worker may, upon the recommendation of the attending physician and surgeon or, if the person needs dental care and there is an attending dentist, the attending dentist, authorize the performance of the medical, surgical, dental, or other remedial care. The social worker shall notify the parent, guardian, or person standing in loco parentis of the person, if any, of the care found to be needed before

that care is provided, and if the parent, guardian, or person standing in loco parentis objects, that care shall be given only upon order of the court in the exercise of its discretion.

(b) Whenever it appears to the juvenile court that a person concerning whom a petition has been filed with the court is in need of medical, surgical, dental, or other remedial care, and that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize the remedial care or treatment for that person, the court, upon the written recommendation of a licensed physician and surgeon or, if the person needs dental care, a licensed dentist, and after due notice to the parent, guardian, or person standing in loco parentis, if any, may make an order authorizing the performance of the necessary medical, surgical, dental, or other remedial care for that person.

(c) Whenever a dependent child of the juvenile court is placed by order of the court within the care and custody or under the supervision of a social worker of the county where the dependent child resides and it appears to the court that there is no parent, guardian, or person standing in loco parentis capable of authorizing or willing to authorize medical, surgical, dental, or other remedial care or treatment for the dependent child, the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that the social worker may authorize the medical, surgical, dental, or other remedial care for the dependent child, by licensed practitioners, as necessary.

(d) Whenever it appears that a child otherwise within subdivision (a), (b), or (c) requires immediate emergency medical, surgical, or other remedial care in an emergency situation, that care may be provided by a licensed physician and surgeon or, if the child needs dental care in an emergency situation, by a licensed dentist, without a court order and upon authorization of a social worker. The social worker shall make reasonable efforts to obtain the consent of, or to notify, the parent, guardian, or person standing in loco parentis prior to authorizing emergency medical, surgical, dental, or other remedial care. "Emergency situation," for the purposes of this subdivision means a child requires immediate treatment for the alleviation of severe pain or an immediate diagnosis and treatment of an unforeseeable medical, surgical, dental, or other remedial condition or contagious disease which if not immediately diagnosed and treated, would lead to serious disability or death.

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

(f) Nothing in this section shall be construed as limiting the right of a parent, guardian, or person standing in loco parentis, who has not been deprived of the custody or control of the child by order of the court, in

providing any medical, surgical, dental, or other remedial treatment recognized or permitted under the laws of this state.

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

(h) Nothing in this section shall be construed as limiting the rights of dependent children, pursuant to Chapter 3 (commencing with Section 6920) of Part 4 of Division 11 of the Family Code, to consent to, among other things, the diagnosis and treatment of sexual assault, medical care relating to the prevention or treatment of pregnancy, including contraception, abortion, and prenatal care, treatment of infectious, contagious, or communicable diseases, mental health treatment, and treatment for alcohol and drug abuse. If a dependent child is 12 years of age or older, his or her social worker is authorized to inform the child of his or her right as a minor to consent to and receive those health services, as necessary. Social workers are authorized to provide dependent children access to age-appropriate, medically accurate information about sexual development, reproductive health, and prevention of unplanned pregnancies and sexually transmitted infections.

SEC. 2. Section 16001.9 of the Welfare and Institutions Code is amended to read:

16001.9. (a) It is the policy of the state that all minors and nonminors in foster care shall have the following rights:

(1) To live in a safe, healthy, and comfortable home where he or she is treated with respect.

(2) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.

(3) To receive adequate and healthy food, adequate clothing, and, for youth in group homes, an allowance.

(4) To receive medical, dental, vision, and mental health services.

(5) To be free of the administration of medication or chemical substances, unless authorized by a physician.

(6) To contact family members, unless prohibited by court order, and social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASAs), and probation officers.

(7) To visit and contact brothers and sisters, unless prohibited by court order.

(8) To contact the Community Care Licensing Division of the State Department of Social Services or the State Foster Care Ombudsperson regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.

(9) To make and receive confidential telephone calls and send and receive unopened mail, unless prohibited by court order.

(10) To attend religious services and activities of his or her choice.

(11) To maintain an emancipation bank account and manage personal income, consistent with the child's age and developmental level, unless prohibited by the case plan.

(12) To not be locked in a room, building, or facility premises, unless placed in a community treatment facility.

(13) To attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with the child's age and developmental level, with minimal disruptions to school attendance and educational stability.

(14) To work and develop job skills at an age-appropriate level, consistent with state law.

(15) To have social contacts with people outside of the foster care system, including teachers, church members, mentors, and friends.

(16) To attend Independent Living Program classes and activities if he or she meets age requirements.

(17) To attend court hearings and speak to the judge.

(18) To have storage space for private use.

(19) To be involved in the development of his or her own case plan and plan for permanent placement.

(20) To review his or her own case plan and plan for permanent placement, if he or she is 12 years of age or older and in a permanent placement, and to receive information about his or her out-of-home placement and case plan, including being told of changes to the plan.

(21) To be free from unreasonable searches of personal belongings.

(22) To the confidentiality of all juvenile court records consistent with existing law.

(23) To have fair and equal access to all available services, placement, care, treatment, and benefits, and to not be subjected to discrimination or harassment on the basis of actual or perceived race, ethnic group identification, ancestry, national origin, color, religion, sex, sexual orientation, gender identity, mental or physical disability, or HIV status.

(24) To have caregivers and child welfare personnel who have received instruction on cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth in out-of-home care.

(25) At 16 years of age or older, to have access to existing information regarding the educational options available, including, but not limited to, the coursework necessary for vocational and postsecondary educational programs, and information regarding financial aid for postsecondary education.

(26) To have access to age-appropriate, medically accurate information about reproductive health care, the prevention of unplanned pregnancy, and the prevention and treatment of sexually transmitted infections at 12 years of age or older.

(b) Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

(c) The State Department of Social Services and each county welfare department are encouraged to work with the Student Aid Commission, the University of California, the California State University, and the California Community Colleges to receive information pursuant to paragraph (23) of subdivision (a).

SEC. 3. Section 16002.5 of the Welfare and Institutions Code is amended to read:

16002.5. It is the intent of the Legislature to maintain the continuity of the family unit and to support and preserve families headed by minor parents and nonminor dependent parents who are themselves under the jurisdiction of the juvenile court by ensuring that minor parents and nonminor dependent parents and their children are placed together in as family-like a setting as possible, unless it has been determined that placement together poses a risk to the child. It is also the intent of the Legislature to ensure that complete and accurate data on parenting minor and nonminor dependents is collected, and that the State Department of Social Services shall ensure that the following information is publicly available on a quarterly basis by county about parenting minor and nonminor dependents: total number of parenting minor and nonminor dependents in each county, their age, their ethnic group, their placement type, their time in care, the number of children they have, and whether their children are court dependents.

(a) To the greatest extent possible, minor parents and nonminor dependent parents and their children shall be provided with access to existing services for which they may be eligible, that are specifically targeted at supporting, maintaining, and developing both the parent-child bond and the dependent parent's ability to provide a permanent and safe home for the child. Examples of these services may include, but are not limited to, child care, parenting classes, child development classes, and frequent visitation.

(b) Child welfare agencies may provide minor parents and nonminor dependent parents with access to social workers or resource specialists who have received training on the needs of teenage parents and available resources, including, but not limited to, maternal and child health programs, child care, and child development classes. Child welfare agencies are encouraged to update the case plans for pregnant and parenting dependents within 60 calendar days of the date the agency is informed of a pregnancy. When updating the case plan, child welfare agencies may hold a specialized conference to assist pregnant or parenting foster youth and nonminor dependents with planning for healthy parenting and identifying appropriate resources and services, and to inform the case plan. The specialized conference shall include the pregnant or parenting minor or nonminor dependent, family members, and other supportive adults, and the specially trained social worker or resource specialist. The specialized conference may include other individuals, including, but not limited to, a public health nurse, a community health worker, or other personnel with a comprehensive knowledge of available maternal and child resources, including public benefit programs. Participation in the specialized conference shall be voluntary on the part of the foster youth or nonminor dependent and

assistance in identifying and accessing resources shall not be dependent on participation in the conference.

(c) The minor parents and nonminor dependent parents shall be given the ability to attend school, complete homework, and participate in age and developmentally appropriate activities unrelated to and separate from parenting.

(d) Child welfare agencies, local educational agencies, and child care resource and referral agencies may make reasonable and coordinated efforts to ensure that minor parents and nonminor dependent parents who have not completed high school have access to school programs that provide onsite or coordinated child care.

(e) Foster care placements for minor parents and nonminor dependent parents and their children shall demonstrate a willingness and ability to provide support and assistance to minor parents and nonminor dependent parents and their children.

(f) Contact between the child, the custodial parent, and the noncustodial parent shall be facilitated if that contact is found to be in the best interest of the child.

(g) For the purpose of this section, “child” refers to the child born to the minor parent.

(h) For the purpose of this section, “minor parent” refers to a dependent child who is also a parent.

(i) For the purpose of this section, “nonminor dependent parent” refers to a nonminor as described in subdivision (v) of Section 11400 who also is a parent.