

AMENDED IN SENATE MARCH 20, 2014

SENATE BILL

No. 909

Introduced by Senator Pavley

January 23, 2014

An act to amend Section 369 of the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

SB 909, as amended, Pavley. Dependent children: health screenings.

Existing law provides that a child may become a dependent child of the juvenile court under certain circumstances, including in cases of abuse and neglect. Existing law authorizes a peace officer, without a warrant, to take a minor into temporary custody when there is reasonable cause to believe the minor comes within the jurisdiction of the juvenile court. Under existing law, a social worker is required to acquire the consent of a parent or permission from the court to authorize medical, surgical, dental, or other remedial care to a child who is in temporary custody. Existing law permits, under specified emergency conditions, a licensed physician to provide emergency medical, surgical, or other remedial care to a child in temporary custody without the consent of a parent or permission from the court.

This bill would additionally permit a social worker to authorize an initial medical, dental, and mental health screening of a child in temporary custody, without parental consent or a court order. The bill would also add mental health treatment to the medical and dental care that may be authorized for a child who is a dependent of the juvenile court, who is in temporary custody, or for whom a dependency petition has been filed.

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. The Legislature finds and declares all of the
2 following:

3 (a) The state has a compelling interest in ensuring the physical
4 and mental health of children in the child welfare system.

5 (b) Both the American Academy of Pediatrics and the Child
6 Welfare League of America have found children entering foster
7 care to be in poor health with chronic and acute health,
8 developmental, and psychiatric disorders.

9 (c) The American Academy of Pediatrics recommends that upon
10 entry into foster care every child receive an initial health screening
11 to identify any immediate medical, dental, or mental health care
12 needs.

13 (d) The completion of an initial health screening as
14 recommended by the American Academy of Pediatrics will
15 improve the health of children entering foster care.

16 SEC. 2. Section 369 of the Welfare and Institutions Code is
17 amended to read:

18 369. (a) Whenever a child is taken into temporary custody
19 under Article 7 (commencing with Section 305), the social worker
20 may authorize an initial medical, dental, and mental health
21 screening of the child, prior to the detention hearing held pursuant
22 to Section 319, for any of the following purposes:

23 (1) To determine whether the child has an urgent medical, dental,
24 or mental health need that requires immediate attention.

25 (2) To determine whether the child poses a health risk to other
26 persons.

27 (3) To determine an appropriate placement to meet the child's
28 medical and mental health care needs *identified in the initial health*
29 *screening*.

30 (b) Whenever a child is taken into temporary custody under
31 Article 7 (commencing with Section 305) and is in need of medical,
32 surgical, mental health, dental, or other remedial care, the social
33 worker may, upon the recommendation of the attending physician
34 and surgeon or ~~licensed~~ mental health provider, or, if the ~~person~~
35 *child* needs dental care and there is an attending dentist, the

1 attending dentist, authorize the performance of the medical,
2 surgical, mental health, dental, or other remedial care. The social
3 worker shall notify the parent, guardian, or person standing in loco
4 parentis of the ~~person~~ *child*, if any, of the care found to be needed
5 before that care is provided, and if the parent, guardian, or person
6 standing in loco parentis objects, that care shall be given only upon
7 order of the court in the exercise of its discretion.

8 (c) Whenever it appears to the juvenile court that a ~~person~~ *child*
9 concerning whom a petition has been filed with the court is in need
10 of medical, surgical, mental health, dental, or other remedial care,
11 and that there is no parent, guardian, or person standing in loco
12 parentis capable of authorizing or willing to authorize the remedial
13 care or treatment for that ~~person~~ *child*, the court, upon the written
14 recommendation of a licensed physician and surgeon or ~~licensed~~
15 mental health provider, or, if the ~~person~~ *child* needs dental care, a
16 licensed dentist, and after due notice to the parent, guardian, or
17 person standing in loco parentis, if any, may make an order
18 authorizing the performance of the necessary medical, surgical,
19 mental health, dental, or other remedial care for that ~~person~~ *child*.

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

31 (e) Whenever it appears that a child otherwise within subdivision
32 (a), (b), (c), or (d) requires immediate emergency medical, surgical,
33 mental health, or other remedial care in an emergency situation,
34 that care may be provided by a licensed physician and surgeon or
35 ~~licensed~~ mental health provider, or, if the child needs dental care
36 in an emergency situation, by a licensed dentist, without a court
37 order and upon authorization of a social worker. The social worker
38 shall make reasonable efforts to obtain the consent of, or to notify,
39 the parent, guardian, or person standing in loco parentis prior to
40 authorizing emergency medical, surgical, mental health, dental,

1 or other remedial care. “Emergency situation,” for the purposes
2 of this subdivision means a child requires immediate treatment for
3 the alleviation of severe pain or an immediate diagnosis and
4 treatment of an unforeseeable medical, surgical, mental health,
5 dental, or other remedial condition or contagious disease which if
6 not immediately diagnosed and treated, would lead to serious
7 disability or death.

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

15 (g) Nothing in this section shall be construed as limiting the
16 right of a parent, guardian, or person standing in loco parentis,
17 who has not been deprived of the custody or control of the child
18 by order of the court, in providing any medical, surgical, mental
19 health, dental, or other remedial treatment recognized or permitted
20 under the laws of this state.

21 (h) The parent of a ~~person~~ *child* described in this section may
22 authorize the performance of medical, surgical, mental health,
23 dental, or other remedial care provided for in this section
24 notwithstanding his or her age or marital status. In nonemergency
25 situations, the parent authorizing the care shall notify the other
26 parent prior to the administration of that care.

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

1 development, reproductive health, and prevention of unplanned
2 pregnancies and sexually transmitted infections.

3 *(j) Nothing in this section shall be construed to affect the*
4 *application of Division 105 (commencing with Section 120100) of*
5 *the Health and Safety Code with regard to communicable disease*
6 *prevention and control.*

7 *(k) For purposes of this section, the term “mental health*
8 *provider” has the same meaning as that term is defined in*
9 *subdivision (a) of Section 865 of the Business and Professions*
10 *Code.*

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