

AMENDED IN SENATE APRIL 10, 2014
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~~ *a noninvasive* 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 care, as defined~~, 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)~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 (i) Nothing in this section shall be construed as limiting the
29 rights of dependent children, pursuant to Chapter 3 (commencing
30 with Section 6920) of Part 4 of Division 11 of the Family Code,
31 to consent to, among other things, the diagnosis and treatment of
32 sexual assault, medical care relating to the prevention or treatment
33 of pregnancy, including contraception, abortion, and prenatal care,
34 treatment of infectious, contagious, or communicable diseases,
35 mental health treatment, and treatment for alcohol and drug abuse.
36 If a dependent child is 12 years of age or older, his or her social
37 worker is authorized to inform the child of his or her right as a
38 minor to consent to and receive those health services, as necessary.
39 Social workers are authorized to provide dependent children access
40 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)
5 of the Health and Safety Code with regard to communicable disease
6 prevention and control.

7 (k) *This section does not authorize a child to receive*
8 *psychotropic medication without the consent of the child's parent*
9 *or guardian, or the court pursuant to Section 369.5.*

10 (l) *Nothing in this section shall be construed to supersede*
11 *Section 319.1, 357, or 369.5, or Article 3 (commencing with Section*
12 *6550) of Chapter 2 of Part 2 of Division 6, with regard to the*
13 *authorization for mental health services.*

14 (m) *Nothing in this section shall be construed to limit or expand*
15 *the laws governing the confidentiality of medical records, the*
16 *physician-patient privilege, or the psychotherapist-patient*
17 *privilege.*

18 ~~(k)~~

19 (n) For purposes of this section, the term “~~mental~~ following
20 terms shall have the following meanings:

21 (1) “Mental health care” means the provision of mental health
22 services, including assessment, treatment, or counseling, on an
23 outpatient basis.

24 (2) “Mental health provider” has the same meaning as that term
25 is defined in subdivision (a) of Section 865 of the Business and
26 Professions Code.