

AMENDED IN SENATE JUNE 2, 2015
AMENDED IN SENATE MARCH 26, 2015

SENATE BILL

No. 319

Introduced by Senator Beall
(Principal coauthor: Senator Mitchell)
(Principal coauthor: Assembly Member Chiu)
(Coauthor: Senator Monning)
~~(Coauthor: Assembly Member Gatto)~~
(Coauthors: Assembly Members Gatto and Gipson)

February 23, 2015

An act to amend Section 56.103 of the Civil Code, and to amend Sections 5328.04 and 16501.3 of the Welfare and Institutions Code, relating to child welfare services.

LEGISLATIVE COUNSEL'S DIGEST

SB 319, as amended, Beall. Child welfare services: public health nursing.

Existing law requires the State Department of Social Services to establish a program of public health nursing in the child welfare services program, and requires counties to use the services of the foster care public health nurse under this program. Existing law requires the foster care public health nurse to perform specified duties, including participating in medical care planning and coordinating for a child in foster care. ~~Existing law also requires a county to establish a community child health and disability prevention program to provide early and periodic assessments of the health status of children in the county.~~

This bill would require a county to provide the services of a foster care public health nurse to children in foster care ~~by contracting with the community child health and disability prevention program~~

~~established in that county.~~ *care.* The bill would require a foster care public health nurse to monitor each child in foster care who is administered one or more psychotropic medications, as specified. By imposing these additional duties on foster care public health nurses, this bill would impose a state-mandated local program.

Existing law restricts the disclosure of medical and mental health information by providers of health care and mental health care services, but authorizes disclosure of this information to county social workers, probation officers, or any other person who is legally authorized to have custody and care of a minor who is in temporary custody or subject to the jurisdiction of the juvenile court, for the purpose of coordinating medical treatment and health care, mental health, and developmental disability services for the minor.

This bill would authorize the disclosure of this health care and mental health care information to a foster care public health nurse, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

- 1 SECTION 1. Section 56.103 of the Civil Code is amended to
- 2 read:
- 3 56.103. (a) A provider of health care may disclose medical
- 4 information to a county social worker, a probation officer, a foster
- 5 care public health nurse acting pursuant to Section 16501.3 of the
- 6 Welfare and Institutions Code, or any other person who is legally
- 7 authorized to have custody or care of a minor for the purpose of
- 8 coordinating health care services and medical treatment provided
- 9 to the minor, including, but not limited to, the sharing of
- 10 information related to screenings, assessments, and laboratory tests
- 11 necessary to monitor the administration of psychotropic
- 12 medications.
- 13 (b) For purposes of this section, health care services and medical
- 14 treatment includes one or more providers of health care providing,
- 15 coordinating, or managing health care and related services,

1 including, but not limited to, a provider of health care coordinating
2 health care with a third party, consultation between providers of
3 health care and medical treatment relating to a minor, or a provider
4 of health care referring a minor for health care services to another
5 provider of health care.

6 (c) For purposes of this section, a county social worker, a
7 probation officer, foster care public health nurse, or any other
8 person who is legally authorized to have custody or care of a minor
9 shall be considered a third party who may receive any of the
10 following:

11 (1) Medical information described in Sections 56.05 and 56.10.

12 (2) Protected health information described in Section 160.103
13 of Title 45 of the Code of Federal Regulations.

14 (d) Medical information disclosed to a county social worker,
15 probation officer, foster care public health nurse, or any other
16 person who is legally authorized to have custody or care of a minor
17 shall not be further disclosed by the recipient unless the disclosure
18 is for the purpose of coordinating health care services and medical
19 treatment of the minor and the disclosure is authorized by law.
20 Medical information disclosed pursuant to this section may not be
21 admitted into evidence in any criminal or delinquency proceeding
22 against the minor. Nothing in this subdivision shall prohibit
23 identical evidence from being admissible in a criminal proceeding
24 if that evidence is derived solely from lawful means other than
25 this section and is permitted by law.

26 (e) (1) Notwithstanding Section 56.104, if a provider of health
27 care determines that the disclosure of medical information
28 concerning the diagnosis and treatment of a mental health condition
29 of a minor is reasonably necessary for the purpose of assisting in
30 coordinating the treatment and care of the minor, that information
31 may be disclosed to a county social worker, probation officer,
32 foster care public health nurse, or any other person who is legally
33 authorized to have custody or care of the minor. The information
34 shall not be further disclosed by the recipient unless the disclosure
35 is for the purpose of coordinating mental health services and
36 treatment of the minor and the disclosure is authorized by law.

37 (2) As used in this subdivision, “medical information” does not
38 include psychotherapy notes as defined in Section 164.501 of Title
39 45 of the Code of Federal Regulations.

1 (f) The disclosure of information pursuant to this section is not
2 intended to limit the disclosure of information when that disclosure
3 is otherwise required by law.

4 (g) For purposes of this section, “minor” means a minor taken
5 into temporary custody or as to ~~who~~ *whom* a petition has been filed
6 with the court, or who has been adjudged to be a dependent child
7 or ward of the juvenile court pursuant to Section 300 or 601 of the
8 Welfare and Institutions Code.

9 (h) (1) Except as described in paragraph (1) of subdivision (e),
10 nothing in this section shall be construed to limit or otherwise
11 affect existing privacy protections provided for in state or federal
12 law.

13 (2) Nothing in this section shall be construed to expand the
14 authority of a social worker, probation officer, foster care public
15 health nurse, or custodial caregiver beyond the authority provided
16 under existing law to a parent or a patient representative regarding
17 access to medical information.

18 SEC. 2. Section 5328.04 of the Welfare and Institutions Code
19 is amended to read:

20 5328.04. (a) Notwithstanding Section 5328, information and
21 records made confidential under that section may be disclosed to
22 a county social worker, a probation officer, a foster care public
23 health nurse acting pursuant to Section 16501.3, or any other person
24 who is legally authorized to have custody or care of a minor, for
25 the purpose of coordinating health care services and medical
26 treatment, as defined in subdivision (b) of Section 56.103 of the
27 Civil Code, mental health services, or services for developmental
28 disabilities, for the minor.

29 (b) Information disclosed under subdivision (a) shall not be
30 further disclosed by the recipient unless the disclosure is for the
31 purpose of coordinating health care services and medical treatment,
32 or mental health or developmental disability services, for the minor
33 and only to a person who would otherwise be able to obtain the
34 information under subdivision (a) or any other ~~provision~~ of law.

35 (c) Information disclosed pursuant to this section shall not be
36 admitted into evidence in any criminal or delinquency proceeding
37 against the minor. Nothing in this subdivision shall prohibit
38 identical evidence from being admissible in a criminal proceeding
39 if that evidence is derived solely from lawful means other than
40 this section and is permitted by law.

1 (d) Nothing in this section shall be construed to compel a
2 physician and surgeon, licensed psychologist, social worker with
3 a master’s degree in social work, licensed marriage and family
4 therapist, licensed professional clinical counselor, nurse, attorney,
5 or other professional person to reveal information, including notes,
6 that has been given to him or her in confidence by the minor or
7 members of the minor’s family.

8 (e) The disclosure of information pursuant to this section is not
9 intended to limit disclosure of information when that disclosure
10 is otherwise required by law.

11 (f) Nothing in this section shall be construed to expand the
12 authority of a social worker, probation officer, foster care public
13 health nurse, or custodial caregiver beyond the authority provided
14 under existing law to a parent or a patient representative regarding
15 access to confidential information.

16 (g) As used in this section, “minor” means a minor taken into
17 temporary custody or for whom a petition has been filed with the
18 court, or who has been adjudged a dependent child or ward of
19 juvenile court pursuant to Section 300 or 601.

20 (h) Information and records that may be disclosed pursuant to
21 this section do not include psychotherapy notes, as defined in
22 Section 164.501 of Title 45 of the Code of Federal Regulations.

23 SEC. 3. Section 16501.3 of the Welfare and Institutions Code
24 is amended to read:

25 16501.3. (a) The State Department of Social Services shall
26 establish and maintain a program of public health nursing in the
27 child welfare services program that meets the federal requirements
28 for the provision of health care to minor and nonminor dependents
29 in foster care consistent with Section 30026.5 of the Government
30 Code. The purpose of the public health nursing program shall be
31 to promote and enhance the physical, mental, dental, and
32 developmental well-being of children in the child welfare system.

33 (b) Under this program, counties shall provide the services of
34 a foster care public health ~~nurse to children in foster care by~~
35 ~~contracting with the community child health and disability~~
36 ~~prevention program established in that county pursuant to Section~~
37 ~~124040 of the Health and Safety Code.~~ *nurse*. The foster care
38 public health nurse and the child’s social worker shall consult,
39 collaborate, and share information in a timely manner to ensure
40 that the child’s physical, mental, dental, and developmental needs

1 are met. The foster care public health nurse shall serve as a liaison
2 with health care professionals and other providers of health-related
3 services. In order to fulfill these duties, the foster care public health
4 nurse shall have access to the child's medical, dental, and mental
5 health care information.

6 (c) The duties of a foster care public health nurse shall include,
7 but need not be limited to, the following:

8 (1) Documenting that each child in foster care receives initial
9 and followup health screenings that meet reasonable standards of
10 medical practice.

11 (2) Collecting health information and other relevant data on
12 each foster child as available, receiving all collected information
13 to determine appropriate referral and services, and expediting
14 referrals to providers in the community for early intervention
15 services, specialty services, dental care, mental health services,
16 and other health-related services necessary for the child.

17 (3) Participating in medical care planning and coordinating for
18 the child. This may include, but is not limited to, assisting case
19 workers in arranging for comprehensive health and mental health
20 assessments, interpreting the results of health assessments or
21 evaluations for the purpose of case planning and coordination,
22 facilitating the acquisition of any necessary court authorizations
23 for procedures or medications, advocating for the health care needs
24 of the child and ensuring the creation of linkage among various
25 providers of care.

26 (4) Providing followup contact to assess the child's progress in
27 meeting treatment goals.

28 (5) At the request of and under the direction of a nonminor
29 dependent, as described in subdivision (v) of Section 11400,
30 assisting the nonminor dependent in accessing physical health and
31 mental health care, coordinating the delivery of health and mental
32 health care services, advocating for the health and mental health
33 care that meets the needs of the nonminor dependent, assisting the
34 nonminor dependent to make informed decisions about his or her
35 health care by, at a minimum, providing educational materials,
36 and assisting the nonminor dependent to assume responsibility for
37 his or her ongoing physical and mental health care management.

38 (6) ~~Monitoring~~ *Monitoring, in collaboration with the child's*
39 *county social worker and mental health worker,* each child in foster
40 care who is administered one or more psychotropic medications.

1 This monitoring shall include, but is not limited to, all of the
2 following:

3 ~~(A) The review of~~ *Reviewing* each request for psychotropic
4 medication filed pursuant to Section 369.5 to ~~ensure~~ *verify* that all
5 required information is provided in the application to the court.

6 ~~(B) Ensuring~~ *Reviewing, monitoring, engaging, and*
7 *documenting in the child's health and education passport, as*
8 *described in Section 16010*, that laboratory tests, other screenings
9 and measurements, evaluations, and assessments required to meet
10 reasonable standards of medical practice have been completed.

11 ~~(C) Ensuring~~ *Reviewing, monitoring, and confirming* that the
12 juvenile court has authorized the psychotropic medication to be
13 administered to the child.

14 ~~(D) Ensuring~~ *Reviewing, monitoring, engaging with the*
15 *caregiver, and confirming* that periodic followup visits with the
16 prescribing physician, ~~lab~~ *laboratory* work, and other
17 measurements are scheduled and completed.

18 ~~(E) Ensuring that~~ *Documenting in* the child's health and
19 education ~~passport, as described in Section 16010, includes~~
20 ~~accurate documentation~~ *passport accurate documentation*
21 concerning the psychotropic medications authorized for and
22 administered to the child.

23 ~~(F) Assessing, monitoring, and documenting~~ *Reviewing and*
24 *documenting* the response of the child to the administration of
25 psychotropic medication through review and interpretation of the
26 laboratory tests, reports by the child and caregiver, and other
27 ~~screenings.~~ *screenings, and, if necessary, providing information*
28 *to the child's social worker to be included in court reports.*

29 ~~(G) Ensuring that any adverse effects of the medication reported~~
30 ~~by the child or child's caregiver are promptly addressed, and, if~~
31 ~~necessary, brought to the attention of the court, the child's social~~
32 ~~worker, or both.~~

33 (d) The services provided by foster care public health nurses
34 under this section shall be limited to those for which reimbursement
35 may be claimed under Title XIX of the federal Social Security Act
36 at an enhanced rate for services delivered by skilled professional
37 medical personnel. Notwithstanding any other law, this section
38 shall be implemented only if, and to the extent that, the department
39 determines that federal financial participation, as provided under

1 Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396
2 et seq.), is available.

3 (e) (1) The State Department of Health Care Services shall seek
4 any necessary federal approvals for child welfare agencies to
5 appropriately claim enhanced federal Title XIX funds for services
6 provided pursuant to this section.

7 (2) Commencing in the fiscal year immediately following the
8 fiscal year in which the necessary federal approval pursuant to
9 paragraph (1) is secured, county child welfare agencies shall
10 provide health care oversight and coordination services pursuant
11 to this section, and may accomplish this through agreements with
12 local public health agencies.

13 (f) (1) Notwithstanding Section 10101, prior to the 2011–12
14 fiscal year, there shall be no required county match of the
15 nonfederal cost of this program.

16 (2) Commencing in the 2011–12 fiscal year, and each fiscal
17 year thereafter, funding and expenditures for programs and
18 activities under this section shall be in accordance with the
19 requirements provided in Sections 30025 and 30026.5 of the
20 Government Code.

21 SEC. 4. To the extent that this act has an overall effect of
22 increasing the costs already borne by a local agency for programs
23 or levels of service mandated by the 2011 Realignment Legislation
24 within the meaning of Section 36 of Article XIII of the California
25 Constitution, it shall apply to local agencies only to the extent that
26 the state provides annual funding for the cost increase. Any new
27 program or higher level of service provided by a local agency
28 pursuant to this act above the level for which funding has been
29 provided shall not require a subvention of funds by the state nor
30 otherwise be subject to Section 6 of Article XIII B of the California
31 Constitution.