

AMENDED IN ASSEMBLY JULY 7, 2015

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)

(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.

This bill would require a county to provide the services of a foster care public health nurse to children in foster 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,
16 including, but not limited to, a provider of health care coordinating
17 health care with a third party, consultation between providers of
18 health care and medical treatment relating to a minor, or a provider

1 of health care referring a minor for health care services to another
2 provider of health care.

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

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

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

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

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

34 (2) As used in this subdivision, “medical information” does not
35 include psychotherapy notes as defined in Section 164.501 of Title
36 45 of the Code of Federal Regulations.

37 (f) The disclosure of information pursuant to this section is not
38 intended to limit the disclosure of information when that disclosure
39 is otherwise required by law.

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

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

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

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

17 5328.04. (a) Notwithstanding Section 5328, information and
18 records made confidential under that section may be disclosed to
19 a county social worker, a probation officer, a foster care public
20 health nurse acting pursuant to Section 16501.3, or any other person
21 who is legally authorized to have custody or care of a minor, for
22 the purpose of coordinating health care services and medical
23 treatment, as defined in subdivision (b) of Section 56.103 of the
24 Civil Code, mental health services, or services for developmental
25 disabilities, for the minor.

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

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

38 (d) Nothing in this section shall be construed to compel a
39 physician and surgeon, licensed psychologist, social worker with
40 a master’s degree in social work, licensed marriage and family

1 therapist, licensed professional clinical counselor, nurse, attorney,
2 or other professional person to reveal information, including notes,
3 that has been given to him or her in confidence by the minor or
4 members of the minor’s family.

5 (e) The disclosure of information pursuant to this section is not
6 intended to limit disclosure of information when that disclosure
7 is otherwise required by law.

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

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

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

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

22 16501.3. (a) The State Department of Social Services shall
23 establish and maintain a program of public health nursing in the
24 child welfare services program that meets the federal requirements
25 for the provision of health care to minor and nonminor dependents
26 in foster care consistent with Section 30026.5 of the Government
27 Code. The purpose of the public health nursing program shall be
28 to promote and enhance the physical, mental, dental, and
29 developmental well-being of children in the child welfare system.

30 (b) Under this program, counties shall provide the services of
31 a foster care public health nurse. The foster care public health
32 nurse and the child’s social worker shall consult, collaborate, and
33 share information in a timely manner to ensure that the child’s
34 physical, mental, dental, and developmental needs are met. The
35 foster care public health nurse shall serve as a liaison with health
36 care professionals and other providers of health-related services.
37 In order to fulfill these duties, the foster care public health nurse
38 shall have access to the child’s medical, dental, and mental health
39 care information.

- 1 (c) The duties of a foster care public health nurse shall include,
2 but need not be limited to, the following:
- 3 (1) Documenting that each child in foster care receives initial
4 and followup health screenings that meet reasonable standards of
5 medical practice.
- 6 (2) Collecting health information and other relevant data on
7 each foster child as available, receiving all collected information
8 to determine appropriate referral and services, and expediting
9 referrals to providers in the community for early intervention
10 services, specialty services, dental care, mental health services,
11 and other health-related services necessary for the child.
- 12 (3) Participating in medical care planning and coordinating for
13 the child. This may include, but is not limited to, assisting case
14 workers in arranging for comprehensive health and mental health
15 assessments, interpreting the results of health assessments or
16 evaluations for the purpose of case planning and coordination,
17 facilitating the acquisition of any necessary court authorizations
18 for procedures or medications, advocating for the health care needs
19 of the child and ensuring the creation of linkage among various
20 providers of care.
- 21 (4) Providing followup contact to assess the child’s progress in
22 meeting treatment goals.
- 23 (5) At the request of and under the direction of a nonminor
24 dependent, as described in subdivision (v) of Section 11400,
25 assisting the nonminor dependent in accessing physical health and
26 mental health care, coordinating the delivery of health and mental
27 health care services, advocating for the health and mental health
28 care that meets the needs of the nonminor dependent, assisting the
29 nonminor dependent to make informed decisions about his or her
30 health care by, at a minimum, providing educational materials,
31 and assisting the nonminor dependent to assume responsibility for
32 his or her ongoing physical and mental health care management.
- 33 (6) Monitoring, in collaboration with the child’s county social
34 worker and mental health worker, each child in foster care who is
35 administered one or more psychotropic medications. This
36 monitoring shall include, but is not limited to, all of the following:
- 37 (A) Reviewing each request for psychotropic medication filed
38 pursuant to Section 369.5 to verify that all required information
39 is provided in the application to the court.

1 (B) Reviewing, monitoring, engaging, and documenting in the
2 child's health and education passport, as described in Section
3 16010, that laboratory tests, other screenings and measurements,
4 evaluations, and assessments required to meet reasonable standards
5 of medical practice have been completed.

6 (C) Reviewing, monitoring, and confirming that the juvenile
7 court has authorized the psychotropic medication to be
8 administered to the child.

9 (D) Reviewing, monitoring, engaging with the caregiver, and
10 confirming *through submitted medical reports received from the*
11 *prescribing physician* that periodic followup ~~visits with the~~
12 ~~prescribing physician,~~ *visits*, laboratory work, and other
13 measurements are scheduled and completed.

14 (E) Documenting in the child's health and education passport
15 accurate documentation concerning the psychotropic medications
16 authorized for and administered to the child.

17 (F) Reviewing and documenting the response of the child to the
18 administration of psychotropic medication through review and
19 interpretation of the laboratory tests, *screenings, and reports by*
20 ~~the child and caregiver, and other screenings,~~ *containing*
21 *information from the child and received from the caregiver or*
22 *social worker*, and, if necessary, ~~providing information to the~~
23 ~~child's social worker interpreting, for the child's social worker,~~
24 *health information* to be included in court reports.

25 (d) The services provided by foster care public health nurses
26 under this section shall be limited to those for which reimbursement
27 may be claimed under Title XIX of the federal Social Security Act
28 at an enhanced rate for services delivered by skilled professional
29 medical personnel. Notwithstanding any other law, this section
30 shall be implemented only if, and to the extent that, the department
31 determines that federal financial participation, as provided under
32 Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396
33 et seq.), is available.

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

38 (2) Commencing in the fiscal year immediately following the
39 fiscal year in which the necessary federal approval pursuant to
40 paragraph (1) is secured, county child welfare agencies shall

1 provide health care oversight and coordination services pursuant
2 to this section, and may accomplish this through agreements with
3 local public health agencies.

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

7 (2) Commencing in the 2011–12 fiscal year, and each fiscal
8 year thereafter, funding and expenditures for programs and
9 activities under this section shall be in accordance with the
10 requirements provided in Sections 30025 and 30026.5 of the
11 Government Code.

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