

AMENDED IN SENATE MARCH 28, 2016

**SENATE BILL**

**No. 1220**

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**Introduced by Senator McGuire**

February 18, 2016

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An act to amend Sections 369.5 and 739.5 of the Welfare and Institutions Code, relating to foster care.

LEGISLATIVE COUNSEL'S DIGEST

SB 1220, as amended, McGuire. Foster care: psychotropic medication.

Under existing law, only a juvenile court judicial officer may make orders regarding the administration of psychotropic medications for a dependent child or a ward of the court who has been removed from the physical custody of his or her parent, as specified. Existing law requires court authorization for the administration of psychotropic medication to be based on a request from a physician, indicating the reasons for the request, a description of the child's or ward's diagnosis and behavior, the expected results of the medication, and a description of any side effects of the medication. ~~Existing law requires the officer to approve or deny the request for authorization to administer psychotropic medication, or set the matter for hearing, as specified, within 7 court days.~~

~~This bill would instead require the officer to take one of those actions within 5 court days:~~ *would, except under emergency conditions, authorize the juvenile court to make an order for the administration of psychotropic medication only if a treatment plan is attached to the physician's request. The bill would, for these purposes, require a treatment plan to include, among other things, appropriate treatments and interventions to address root causes contributing to the child's emotional, cognitive, or behavioral dysregulation.*

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. Section 369.5 of the Welfare and Institutions  
2 Code is amended to read:  
3 369.5. (a) (1) If a child is adjudged a dependent child of the  
4 court under Section 300 and the child has been removed from the  
5 physical custody of the parent under Section 361, only a juvenile  
6 court judicial officer shall have authority to make orders regarding  
7 the administration of psychotropic medications for that child. The  
8 juvenile court may issue a specific order delegating this authority  
9 to a parent upon making findings on the record that the parent  
10 poses no danger to the child and has the capacity to authorize  
11 psychotropic medications. Court authorization for the  
12 administration of psychotropic medication shall be based on a  
13 request from a physician, indicating the reasons for the request, a  
14 description of the child’s diagnosis and behavior, the expected  
15 results of the medication, and a description of any side effects of  
16 the medication.

17 (2) (A) On or before July 1, 2016, the Judicial Council shall  
18 amend and adopt rules of court and develop appropriate forms for  
19 the implementation of this section, in consultation with the State  
20 Department of Social Services, the State Department of Health  
21 Care Services, and stakeholders, including, but not limited to, the  
22 County Welfare Directors Association of California, the County  
23 Behavioral Health Directors Association of California, the Chief  
24 Probation Officers of California, associations representing current  
25 and former foster children, caregivers, and children’s attorneys.  
26 This effort shall be undertaken in coordination with the updates  
27 required under paragraph (2) of subdivision (a) of Section 739.5.

28 (B) The rules of court and forms developed pursuant to  
29 subparagraph (A) shall address all of the following:

30 (i) The child and his or her caregiver and court-appointed special  
31 advocate, if any, have an opportunity to provide input on the  
32 medications being prescribed.

33 (ii) Information regarding the child’s overall mental health  
34 assessment and treatment plan is provided to the court.

1 (iii) Information regarding the rationale for the proposed  
2 medication, provided in the context of past and current treatment  
3 efforts, is provided to the court. This information shall include,  
4 but not be limited to, information on other pharmacological and  
5 nonpharmacological treatments that have been utilized and the  
6 child’s response to those treatments, a discussion of symptoms not  
7 alleviated or ameliorated by other current or past treatment efforts,  
8 and an explanation of how the psychotropic medication being  
9 prescribed is expected to improve the child’s symptoms.

10 (iv) Guidance is provided to the court on how to evaluate the  
11 request for authorization, including how to proceed if information,  
12 otherwise required to be included in a request for authorization  
13 under this section, is not included in a request for authorization  
14 submitted to the court.

15 (C) The rules of court and forms developed pursuant to  
16 subparagraph (A) shall include a process for periodic oversight by  
17 the court of orders regarding the administration of psychotropic  
18 medications that includes the caregiver’s and child’s observations  
19 regarding the effectiveness of the medication and side effects,  
20 information on medication management appointments and other  
21 followup appointments with medical practitioners, and information  
22 on the delivery of other mental health treatments that are a part of  
23 the child’s overall treatment plan. The periodic oversight shall be  
24 facilitated by the county social worker, public health nurse, or  
25 other appropriate county staff. This oversight process shall be  
26 conducted in conjunction with other regularly scheduled court  
27 hearings and reports provided to the court by the county child  
28 welfare agency.

29 (3) (A) *Except under emergency conditions, the juvenile court*  
30 *may only make an order for the administration of psychotropic*  
31 *medication if a treatment plan is attached to the physician’s*  
32 *request.*

33 (B) *For purposes of this paragraph, a treatment plan shall*  
34 *include all of the following:*

35 (i) *Appropriate treatments and interventions to address root*  
36 *causes contributing to the child’s emotional, cognitive, or*  
37 *behavioral dysregulation.*

38 (ii) *Evidence-based or best practice nonpharmacological*  
39 *interventions that are linguistically, culturally, and developmentally*  
40 *appropriate for the child’s needs and symptoms.*

1 (iii) *How, and by whom, symptoms and psychosocial functioning*  
2 *will be monitored in order to evaluate treatment and intervention*  
3 *effectiveness.*

4 (b) (1) In counties in which the county child welfare agency  
5 completes the request for authorization for the administration of  
6 psychotropic medication, the agency is encouraged to complete  
7 the request within three business days of receipt from the physician  
8 of the information necessary to fully complete the request.

9 (2) Nothing in this subdivision is intended to change current  
10 local practice or local court rules with respect to the preparation  
11 and submission of requests for authorization for the administration  
12 of psychotropic medication.

13 (c) (1) ~~Within five~~ *seven* court days from receipt by the court  
14 of a completed request, the juvenile court judicial officer shall  
15 either approve or deny in writing a request for authorization for  
16 the administration of psychotropic medication to the child, or shall,  
17 upon a request by the parent, the legal guardian, or the child's  
18 attorney, or upon its own motion, set the matter for hearing.

19 (2) Notwithstanding Section 827 or any other law, upon the  
20 approval or denial by the juvenile court judicial officer of a request  
21 for authorization for the administration of psychotropic medication,  
22 the county child welfare agency or other person or entity who  
23 submitted the request shall provide a copy of the court order  
24 approving or denying the request to the child's caregiver.

25 (d) Psychotropic medication or psychotropic drugs are those  
26 medications administered for the purpose of affecting the central  
27 nervous system to treat psychiatric disorders or illnesses. These  
28 medications include, but are not limited to, anxiolytic agents,  
29 antidepressants, mood stabilizers, antipsychotic medications,  
30 anti-Parkinson agents, hypnotics, medications for dementia, and  
31 psychostimulants.

32 (e) Nothing in this section is intended to supersede local court  
33 rules regarding a minor's right to participate in mental health  
34 decisions.

35 (f) This section does not apply to nonminor dependents, as  
36 defined in subdivision (v) of Section 11400.

37 SEC. 2. Section 739.5 of the Welfare and Institutions Code is  
38 amended to read:

39 739.5. (a) (1) If a minor who has been adjudged a ward of the  
40 court under Section 601 or 602 is removed from the physical

1 custody of the parent under Section 726 and placed into foster  
2 care, as defined in Section 727.4, only a juvenile court judicial  
3 officer shall have authority to make orders regarding the  
4 administration of psychotropic medications for that minor. The  
5 juvenile court may issue a specific order delegating this authority  
6 to a parent upon making findings on the record that the parent  
7 poses no danger to the minor and has the capacity to authorize  
8 psychotropic medications. Court authorization for the  
9 administration of psychotropic medication shall be based on a  
10 request from a physician, indicating the reasons for the request, a  
11 description of the minor's diagnosis and behavior, the expected  
12 results of the medication, and a description of any side effects of  
13 the medication.

14 (2) (A) On or before July 1, 2016, the Judicial Council shall  
15 amend and adopt rules of court and develop appropriate forms for  
16 the implementation of this section, in consultation with the State  
17 Department of Social Services, the State Department of Health  
18 Care Services, and stakeholders, including, but not limited to, the  
19 County Welfare Directors Association of California, the County  
20 Behavioral Health Directors Association of California, the Chief  
21 Probation Officers of California, associations representing current  
22 and former foster children, caregivers, and minor's attorneys. This  
23 effort shall be undertaken in coordination with the updates required  
24 under paragraph (2) of subdivision (a) of Section 369.5.

25 (B) The rules of court and forms developed pursuant to  
26 subparagraph (A) shall address all of the following:

27 (i) The minor and his or her caregiver and court-appointed  
28 special advocate, if any, have an opportunity to provide input on  
29 the medications being prescribed.

30 (ii) Information regarding the minor's overall mental health  
31 assessment and treatment plan is provided to the court.

32 (iii) Information regarding the rationale for the proposed  
33 medication, provided in the context of past and current treatment  
34 efforts, is provided to the court. This information shall include,  
35 but not be limited to, information on other pharmacological and  
36 nonpharmacological treatments that have been utilized and the  
37 minor's response to those treatments, a discussion of symptoms  
38 not alleviated or ameliorated by other current or past treatment  
39 efforts, and an explanation of how the psychotropic medication  
40 being prescribed is expected to improve the minor's symptoms.

1 (iv) Guidance is provided to the court on how to evaluate the  
2 request for authorization, including how to proceed if information,  
3 otherwise required to be included in a request for authorization  
4 under this section, is not included in a request for authorization  
5 submitted to the court.

6 (C) The rules of court and forms developed pursuant to  
7 subparagraph (A) shall include a process for periodic oversight by  
8 the court of orders regarding the administration of psychotropic  
9 medications that includes the caregiver's and minor's observations  
10 regarding the effectiveness of the medication and side effects,  
11 information on medication management appointments and other  
12 followup appointments with medical practitioners, and information  
13 on the delivery of other mental health treatments that are a part of  
14 the minor's overall treatment plan. This oversight process shall be  
15 conducted in conjunction with other regularly scheduled court  
16 hearings and reports provided to the court by the county probation  
17 agency.

18 (3) (A) *Except under emergency conditions, the juvenile court*  
19 *may only make an order for the administration of psychotropic*  
20 *medication if a treatment plan is attached to the physician's*  
21 *request.*

22 (B) *For purposes of this paragraph, a treatment plan shall*  
23 *include all of the following:*

24 (i) *Appropriate treatments and interventions to address root*  
25 *causes contributing to the minor's emotional, cognitive, or*  
26 *behavioral dysregulation.*

27 (ii) *Evidence-based or best practice nonpharmacological*  
28 *interventions that are linguistically, culturally, and developmentally*  
29 *appropriate for the minor's needs and symptoms.*

30 (iii) *How, and by whom, symptoms and psychosocial functioning*  
31 *will be monitored in order to evaluate treatment and intervention*  
32 *effectiveness.*

33 (b) (1) The agency that completes the request for authorization  
34 for the administration of psychotropic medication is encouraged  
35 to complete the request within three business days of receipt from  
36 the physician of the information necessary to fully complete the  
37 request.

38 (2) Nothing in this subdivision is intended to change current  
39 local practice or local court rules with respect to the preparation

1 and submission of requests for authorization for the administration  
2 of psychotropic medication.

3 (c) (1) Within ~~five~~ *seven* court days from receipt by the court  
4 of a completed request, the juvenile court judicial officer shall  
5 either approve or deny in writing a request for authorization for  
6 the administration of psychotropic medication to the minor, or  
7 shall, upon a request by the parent, the legal guardian, or the  
8 minor's attorney, or upon its own motion, set the matter for hearing.

9 (2) Notwithstanding Section 827 or any other law, upon the  
10 approval or denial by the juvenile court judicial officer of a request  
11 for authorization for the administration of psychotropic medication,  
12 the county probation agency or other person or entity who  
13 submitted the request shall provide a copy of the court order  
14 approving or denying the request to the minor's caregiver.

15 (d) Psychotropic medication or psychotropic drugs are those  
16 medications administered for the purpose of affecting the central  
17 nervous system to treat psychiatric disorders or illnesses. These  
18 medications include, but are not limited to, anxiolytic agents,  
19 antidepressants, mood stabilizers, antipsychotic medications,  
20 anti-Parkinson agents, hypnotics, medications for dementia, and  
21 psychostimulants.

22 (e) Nothing in this section is intended to supersede local court  
23 rules regarding a minor's right to participate in mental health  
24 decisions.

25 (f) This section does not apply to nonminor dependents, as  
26 defined in subdivision (v) of Section 11400.